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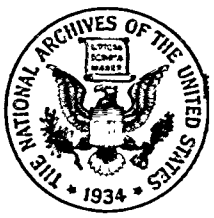
MONDAY, MARCH 21, 1977



highlights

Soon, your
AGENCY
must take
ACTION.
In
SUMMARY:
on the
EFFECTIVE DATE
of April 1, 1977,
preambles for proposed and
final rules must be clear, concise,
and in the new format.
FOR FURTHER INFORMATION CONTACT:
Martha Girard, Special Projects
Unit, 523–5240.
SUPPLEMENTARY INFORMATION
is available at 1 CFR 18.12 (1977),
and 41 FR 56623, December 29, 1976.

All proposed and final rules received by the FEDERAL REGISTER on or after April 1, 1977, which do not comply with the new PREAMBLE requirement will not be accepted.

HOW TO USE THE FEDERAL REGISTER

Seattle, Washington workshops on March 30 and 31, 1977. Reservations required: Dorothy Clegg, 206–442–5556.

(Details: 42 FR 11933, March 1, 1977)

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(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

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NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

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INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202–523–5240.**

FEDERAL REGISTER, Daily Issue:

Subscriptions and distribution	202–783–3238
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A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

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rules and regulations

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

Miscellaneous Amendments to Chapter

Pursuant to section 552 of Title 5 of United States Code (80 Stat. 383), as amended by Pub. L. 93-502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (66 Stat. 173; 8 U.S.C. 1103), 28 CFR 0.105(b) and 8 CFR 2.1, miscellaneous amendments as set forth herein are prescribed to Parts 100, 103, 204, 212, 214, 238 and 316a of Chapter I of Title 8 of the Code of Federal Regulations.

In § 100.4(c)(2) the list of Class A ports under District No. 22, Portland, Maine, is being amended by deleting the reference to the Union Bridge at the Port of Calais, Maine, because that bridge was destroyed by flood in 1960 and has not been replaced.

In § 103.3(a) the fee specified for filing a notice of appeal is being increased to $50 to conform to the schedule of fees set forth in 8 CFR 103.7(b)(1).

Under the provisions of the Immigration and Nationality Act in effect prior to January 1, 1977, a native of a dependent area of an Eastern Hemisphere country, located in the Western Hemisphere who was the beneficiary of a visa preference classification under section 203(a) of the Act lost that preference entitlement when his country became independent because such beneficiary then became a special immigrant as defined under section 101(a)(27)(A), and thus ineligible for preference classification. Pub. L. 94-571 which became effective January 1, 1977 granted preference eligibility to natives of independent countries of the Western Hemisphere as provided in section 203(a) of the Act. Accordingly 8 CFR 204.4 will be amended by redesignating existing paragraph (d) as (e), and by adding a new paragraph (d) which will provide that a preference classification which became inoperative solely because the beneficiary's country became independent shall, on and after January 1, 1977, be considered reinstated provided the status and relationship on the basis of which the petition was originally approved continue unchanged and provided any necessary labor certification remains valid.

In § 212.1(i) the first sentence is being amended to provide that all district directors and officers in charge are authorized to act upon recommendations made by United States consular officers or by officers of the Visa Office, Department of State, pursuant to the provisions of 22 CFR 41.7 for waiver of visa and passport requirements under the provisions of section 212(d)(4)(A) of the Act. The existing regulation restricts that authority to officers in charge at certain specified locations.

Sec. 214.2(c)(1) is being amended by adding Bangor, Maine and Pittsburgh, Pa., to the list of ports at which aliens may be admitted in transit without a visa.

In accordance with the provisions of section 238(d) of the Immigration and Nationality Act, an agreement has been entered into between the Commissioner of Immigration and Naturalization and Empresa Ecuatoriana de Aviacion, a transportation line operating to ports of the United States, to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries. This agreement supersedes a similar agreement entered into between the Commissioner of Immigration and Naturalization and Compania Ecuatoriana de Aviacion, S.A., corporate predecessor of the above-named transportation line. Accordingly, in Part 238, § 238.3(b) will be amended by deleting "Compania Ecuatoriana de Aviacion, S.A." from the listing of signatory lines, and by adding to that listing, in alphabetical sequence, "Empresa Ecuatoriana de Aviacion." Sec. 238.3(b) will be further amended by adding "Southern Airways, Inc." to the list of signatory lines in that paragraph because in accordance with the provisions of section 238(d) of the Immigration and Nationality Act, an agreement has been entered into between the Commissioner of Immigration and Naturalization and Southern Airways, Inc., a transportation line operating to ports of the United States, to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

An agreement for preinspection at Montreal, P.Q., Canada, of flights of McCulloch International Airlines, destined to the United States, has been entered into between that line and the Commissioner of Immigration and Naturalization pursuant to sections 103 and 238(b) of the Immigration and Nationality Act. Accordingly, § 238.4 is being amended by adding "McCulloch International Airlines" to the listing of transportation lines which have entered into agreements for the preinspection of their passengers and crews at Montreal. Also, an agreement for preinspection at Vancouver, B.C., Canada, of flights of American Airlines, Inc., destined to the United States, has been entered into between that line and the Commissioner of Immigration and Naturalization pursuant to sections 103 and 238(b) of the Immigration and Nationality Act. Accordingly § 238.4 will be further amended by adding "American Airlines, Inc.," to the listing of transportation lines which have entered into agreements for the preinspection of their passengers and crews at Vancouver.

On February 1, 1977, it was determined that the University of North Carolina at Chapel Hill, is an American institution of research for the purpose of preserving residence in the United States for naturalization. Accordingly, § 316a.2 will be amended by adding that institution to the list of American institutions of research recognized by the Attorney General as set forth in § 316a.2.

In the light of the foregoing the above-described amendments as set forth below, are hereby prescribed to Chapter I of Title 8 of the Code of Federal Regulations:

PART 100—STATEMENT OF ORGANIZATION

1. In § 100.4(c)(2) in District No. 22, Portland, Maine, in the list of Class A ports thereunder, the Class A port at Calais, Maine is amended by deleting Union Bridge from the parenthetical portion of the reference. As amended the Calais, Maine Class A port designation will read as follows:

§ 100.4 Field service.

* * * * *

(c) *Suboffices.* * * *

(2) *Ports of entry for aliens arriving by vessel or by land transportation.*

DISTRICT NO. 22—PORTLAND, MAINE

CLASS A

* * * * *

Calais, Maine (includes Ferry Point and Milltown Bridges)

* * * * *

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

2. Section 103.3(a) is amended by changing the fee shown in the third sentence from $25 to $50. As amended, § 103.1(a) reads as follows:

§ 103.3 Denials, appeals, and precedent decisions.

(a) *Denials and appeals.* Whenever a formal application or petition filed under § 103.2 is denied, the applicant shall be given written notice setting forth the specific reasons for such denial. If the notification is made on Form I-292, the signed duplicate thereof constitutes the

order of denial. When the applicant is entitled to appeal to another Service officer, the notice shall advise him that he may appeal from the decision, and that such appeal may be taken within 15 days after the service of the notification of decision, accompanied by a supporting brief if desired and a fee of $50, by filing Notice of Appeal, Form I-290B, which shall be furnished with the written notice. For good cause shown, the time within which the brief may be submitted may be extended. The party taking the appeal may, prior to appellate decision, file a written withdrawal of such appeal. An appeal, cross-appeal, answers thereto and accompanying brief, if any, shall become part of the record of proceeding and, if filed by an officer of the Service, a copy shall be served on the party affected.

* * * * *

PART 204—PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

3. Section 204.4 is amended by redesignating existing paragraph (d) as paragraph (e), and by adding a new paragraph (d). As amended, §§ 204.4(d) and (e) read as follows:

§ 204.4 Validity of approved petitions.

* * * * *

(d) *Petitions for natives of former Western Hemisphere dependent areas.* An approved visa petition which previous to January 1, 1977 granted a preference classification to a beneficiary who was at the time of approval a native of a dependent area in the Western Hemisphere, and which thereafter became inoperative solely because that area became an independent country, shall on and after January 1, 1977 be considered reinstated provided the status and relationship on the basis of which the petition was originally approved continue unchanged and provided any necessary labor certification remains valid.

(e) *Revocation.* The validity of any petition under this section may be revoked pursuant to the provisions of Part 205 of this chapter prior to the time limitations set forth herein.

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

4. In § 212.1 paragraph (i) is amended by revising the first sentence to read as follows:

§ 212.1 Documentary requirements for nonimmigrants.

* * * * *

(i) *Officers authorized to act upon recommendations of United States consular officers for waiver of visa and passport requirements.* All district directors and officers in charge are authorized to act upon recommendations made by United States consular officers or by officers of the Visa Office, Department of State, pursuant to the provisions of 22 CFR 41.7 for waiver of visa and passport requirements under the provisions of section 212 (d) (4) (A) of the Act. * * *

* * * * *

PART 214—NONIMMIGRANT CLASSES

5. In § 214.2 paragraph (c) (1) is amended by revising the fourth sentence thereof to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

(c) *Transits*—(1) *Without visas.* * * * Except for transit from one part of foreign contiguous territory to another part of the same territory, application for direct transit without a visa must be made at one of the following ports of entry: Bangor, Maine; Buffalo, N.Y.; Niagara Falls, N.Y.; Boston, Mass.; New York, N.Y.; Philadelphia, Pa.; Pittsburgh, Pa.; Baltimore, Md.; Washington, D.C.; Norfolk, Va.; Atlanta, Ga.; Miami, Fla.; Port Everglades, Fla.; Tampa, Fla.; New Orleans, La.; San Antonio, Tex.; Dallas, Tex.; Houston, Tex.; Brownsville, Tex.; San Diego, Calif.; Los Angeles, Calif.; San Francisco, Calif.; Honolulu, Hawaii; Seattle, Wash.; Portland, Oreg.; Great Falls, Mont.; St. Paul, Minn.; Chicago, Ill.; Detroit, Mich.; Denver, Colo.; Anchorage, Alaska; Fairbanks, Alaska; San Juan, P.R.; Ponce, P.R.; Charlotte Amalie, V.I.; Christiansted, V.I.; Agaña, Guam. * * *

* * * * *

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.3 [Amended]

6. In § 238.3 *Aliens in immediate and continuous transit,* the listing of transportation lines in paragraph (b) *Signatory lines* is amended by deleting the following transportation line from the listing: "Compania Ecuatoriana de Aviacion, S.A." § 238.3(b) is further amended by adding the following transportation lines thereto, in alphabetical sequence: "Empresa Ecuatoriana de Aviacion" and "Southern Airways, Inc."

§ 238.4 [Amended]

7. In § 238.4 *Preinspection outside the United States,* the listing of transportation lines under "At Montreal" is amended by adding thereto in alphabetical sequence: "McCulloch International Airlines", and the listing of transportation lines under "At Vancouver" is amended by adding thereto in alphabetical sequence "American Airlines, Inc."

PART 316a—RESIDENCE, PHYSICAL PRESENCE AND ABSENCE

§ 316a.2 [Amended]

8. In § 316a.2 *American institutions of research,* the listing of research institutions is amended by adding thereto in alphabetical sequence the following institution: "University of North Carolina at Chapel Hill".

(Sec. 103; 66 Stat. 173; (8 U.S.C. 1103).)

Compliance with the provisions of section 553 of Title 5 of the United States Code (80 Stat. 383) as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the amendments to §§ 100.4(c) (2), 103.3(a), and 204.4(e) are editorial in nature; the amendments to §§ 212.1(i) and 214.2(c) relate to agency organization and management; the amendment to § 204.4(d) confers a benefit on the parties affected thereby; the amendments to §§ 238.3(b) and 238.4 add transportation lines to the respective listings; and the amendment to § 316a.2 adds an American institution of research to the listing.

Effective date: The amendments prescribed in this order will become effective on March 21, 1977.

Dated: March 16, 1977.

L. F. CHAPMAN, Jr.,
Commissioner of Immigration and Naturalization.

[FR Doc.77-8361 Filed 3-18-77;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

[Ruling 1977-5]

APPLICATION OF THE DEFINITION OF "TRANSACTION" FOR PURPOSES OF COMPUTING WEIGHTED AVERAGE MAY 15, 1973, PRICES

Ruling

I. INTRODUCTION

The purpose of this ruling is to interpret the term "transaction," as it is defined in the FEA price regulations applicable to refiners, resellers/retailers and natural gas processors. The term is an important element in determining current maximum allowable prices because, under applicable regulations, current maximum allowable prices are based upon the weighted average prices at which products are lawfully priced in "transactions" with the class of purchaser concerned on May 15, 1973.

The ruling discusses generally the role of the "transaction" definition in the price regulations and its application in various situations, including those in which covered products were furnished pursuant to written fixed-price contracts, pursuant to written variable-price contracts, or in the absence of any written contract. For the reasons discussed below, presumptions are established that "transactions" occur (a) at the time both parties have signed a written contract that specifies a fixed price at which a covered product will be furnished, (b) at the time the price is fixed with respect to a particular delivery of a covered product pursuant to a written variable-price contract, and (c) at the time of delivery of a covered product when there is no written contract.

Clarification of the term "transaction" is needed, in part, because of differing definitions of "transaction" and related terms which have applied to the petroleum industry under different phases of price control programs since 1971, as reviewed below. Clarification is also needed because of certain problems concerning application of the "transaction" definition which did not become fully apparent until FEA had undertaken extensive audits of records of refiners and resellers/retailers. In addition, FEA received a request for a formal ruling, following a decision by FEA's Office of Exceptions and Appeals on an appeal from a remedial order that related to the transaction definition. The decision quoted a portion of the remedial order in which the term "transactions" occurring on May 15, 1973, was intrepreted to include two elements: (1) contracts entered into on May 15, 1973, and (2) actual "sales" (i.e., shipments) which occurred on that date whether pursuant to a pre-existing contract or otherwise. *Gulf Oil Corp.*, 3 FEA ¶ 80,636, May 27, 1976.

II. The Purpose of the "Transaction" Definition

A. General

In order to determine the maximum allowable prices applicable in sales of a particular product to a particular class of purchaser (other than in first sales of crude oil), a seller of a covered product must first determine the "weighted average price at which the covered product was *lawfully priced in transactions* with the class of purchaser concerned *on May 15, 1973.*"[1] In general, the maximum allowable price is the "May 15, 1973, weighted average price," thus defined, plus increased product costs and allowable increased non-product costs.[2]

FEA regulations also provide that, if no "transaction" occurred with respect to a particular product on May 15, 1973, the most recent day preceding May 15, 1973, when a "transaction" occurred shall be used for purposes of computing the maximum allowable price (§§ 212.83(a)(3) and 212.93(d)).

"Transaction" is defined in 10 CFR 212.31 as follows:

> "Transaction" means an arm's-length sale between unrelated persons which are not members of a controlled group * * * and is considered to occur at the time and place when a binding contract is entered into between the parties.

Thus, the definition of "transaction" serves to help isolate and identify the particular commercial events occurring on or most recently prior to May 15, 1973. The prices in such "transactions" are then to be used in determining the "May 15, 1973, weighted average price."

[1] 10 CFR 212.82 (definition of "maximum allowable price" for refiners) (emphasis added). See also 10 CFR 212.93 (price rules for resellers and retailers) and 10 CFR 212.163 (price rules for first sales of natural gas liquids and natural gas liquid products).

[2] Ibid.

B. Significance of the May 15, 1973, Base Date

A seller's "May 15, 1973, weighted average price" for a product in sales to a class of purchaser determines, in effect, the maximum price in all future sales of that product to a particular class of purchaser. This result occurs because only those increased costs incurred since May 1973 generally may be added to May 15, 1973, weighted average prices to determine maximum allowable prices.

The May 15, 1973, base date, which coincides with the base date for producers for determining lower-tier crude oil price ceilings,[3] was selected for a number of reasons, including the general stability of prices in the petroleum industry in mid-May 1973, following an initial round of crude oil price increases earlier in 1973 and prior to a second round of price increases that began on June 1, 1973.[4] The month of May 1973, was the last full month prior to the Cost of Living Council's Phase III price freeze and subsequent price control programs, and thus represents the most recent period in which relatively normal market conditions in the petroleum industry prevailed.[5] A base period in which relatively normal market conditions prevailed was necessary so that the regulations would reflect relatively normal "margins." Further, because classes of purchaser are determined and fixed with reference to base period transactions, a period of relatively normal market conditions would permit such classes to reflect normal or "customary" price differentials between a firm's purchasers.[6]

It should also be noted in this connection that the increased costs which may be added to the May 15, 1973, selling price to determine the maximum allowable price are generally those which have been incurred since May 15, 1973, or those which represent an average increase over the average costs in the month of May, 1973.[7] This coincidence of the base period price level and the starting date for calculating increased costs fulfills, as far as possible, the general intent of the price regulations to limit current prices to levels established by the market on May 15, 1973, plus increased costs incurred since that date.

C. Mechanisms for Exclusion of Prices Not Appropriately Representative of May 15, 1973 Market Conditions

As noted above, the price regulations look to May, 1973, as the appropriate time for measuring base-period price levels, and the regulations reflect several mechanisms whereby, of the hundreds or thousands of potential indicia of May, 1973, price levels for each product and class of purchaser, only a limited number are taken into account.

Once having determined, based on the foregoing considerations, that May, 1973, was an appropriate base price and base cost period for purposes of the current petroleum price control program, the Cost of Living Council selected as the "base period" for prices the single date of May 15, 1973 (or the next preceding day on which a "transaction" occurred, if no "transaction" occurred on May 15, 1973), rather than a longer reference period. The use of a single day appears to have been intended to permit relative simplicity in calculating and auditing weighted average prices in the base period, as the number of base period "transactions" was limited thereby to a relatively small and manageable number. A great many more "transactions" might have been involved if, for example, the period for establishing prices had been a week or a month in length.

Secondly, only a single "transaction" on (or most recently prior to) May 15, 1973, is needed to establish the weighted average price to a class of purchaser, with "weight averaging" required only if more than a single "transaction" occurred on May 15, 1973 (or on the most recent date prior to May 15, 1973, on which at least one transaction did occur).

The time when a "transaction" occurs is important, therefore, in determining whether the price in that "transaction" is to be appropriately regarded as a May 15, 1973 (or earlier) price. If a "transaction" occurred after May 15, 1973, the price in that transaction is automatically omitted from the May 15, 1973, price calculation. If a "transaction" occurred prior to May 15, 1973, however, the price in that transaction is included in the May 15, 1973, selling price calculation, unless it is "screened out" of the calculation by a price in a "transaction" which occurred closer to (but not after) May 15, 1973, with the class of purchaser concerned. This "screening out" process thus serves to identify those prices in actual transactions by the seller concerned which occurred on or as closely prior to May 15, 1973, as possible, and thus to reflect, as nearly as possible, the seller's May 15, 1973, market prices.

As is discussed more fully below, the definition of "transaction" as occurring at the time a binding contract is entered into also reflects an effort to exclude, insofar as possible, prices in shipments or deliveries of products which occurred on

[3] 10 CFR 212.73.

[4] Historical Working Papers on the Economic Stabilization Program, Part II, pp. 1266–1267.

[5] Although mandatory price regulations had been re-imposed on refiners during Phase III, these regulations were relatively more flexible than those which prevailed during Phase II.

[6] See definition of "class of purchaser" in 10 CFR 212.31.

[7] For resellers and retailers, May 15, 1973, is the starting point for measuring increased product costs (§ 212.93) and increased non-product costs (§ 212.93(b)). However, increased non-product costs are limited to the maximum cent-per-gallon amounts specified in § 212.93(b) regardless of the actual amount of increased non-product costs incurred. For refiners, increased costs means either those which have been incurred since May 15, 1973, or the increase over the average costs for the month of May, 1973, depending upon the cost category concerned. See, e.g., § 212.83(c)(2)(iii)(E).

or before May 15, 1973, but which were made pursuant to old, fixed-price contracts, and which were therefore not thought to be reasonably representative of May 15, 1973, market prices.

The principal focus of this ruling is the application of the definition of "transaction" in the case of variable-price contracts pursuant to which covered products were supplied at prices that would vary from month-to-month or shipment-to-shipment. This ruling concludes that the date of entry into a contract that lacks a fixed price term does not constitute the date on which a "transaction" occurred for purposes of determining whether the "price" in that transaction is to be included in the May 15, 1973, selling price calculation. Rather, FEA has concluded that the time when a price is fixed for a particular delivery pursuant to a variable price contract is the date when a "transaction" occurs. This conclusion is based on the fact that the purpose of fixing a date on which a "transaction" occurs is to determine whether the price in that transaction is to be included in a seller's calculation of prices intended to be reasonably representative of May 15, 1973 (or earlier) market levels. A variable price contract does not fix a price at the time it is entered into, but operates instead as a framework for fixing prices from time to time, as deliveries are made under the contract. FEA has concluded that the time when the price is fixed with respect to a particular delivery under a variable-price contract is the event which is most appropriately regarded as determinative of when a "transaction" occurs for purposes of determining, in turn, whether the price in that "transaction" is appropriately to be taken into account as a May 15, 1973 (or earlier) price that is reasonably representative of market levels. The date of entry into a variable-price contract is not treated as the date on which a "binding contract" is entered into because of the absence at that time of any binding obligation to supply product at a fixed price. Instead, the entry into a binding contract is considered to occur when a binding obligation to supply and to purchase a particular delivery of product at a fixed price arises. At the time such prices with respect to particular shipments are fixed, "subsidiary contracts" are entered into that supply a price which can appropriately be regarded as representative of market levels.

This interpretation is entirely consistent with the language of the regulations, which (1) specify that a "transaction" is deemed to take place "at the time and place when a binding contract is entered into between the parties" (10 CFR § 212.31); and (2) include only those transactions on (or before) May 15, 1973, in which a product was "lawfully priced" to a class of purchaser (10 CFR §§ 212.83, 212.93 and 212.163). Thus, to be a transaction that can be used for purposes of computing a seller's maximum allowable price there must be a "binding contract" on or before May 15, 1973, in which a product was "lawfully priced." Prices in "transactions" (i.e., in deliveries) made pursuant to long term variable-price contracts are not "screened out" of the May 15, 1973, selling price calculation simply because they were made pursuant to an overall contract entered into at some earlier date. Conversely, the date when a variable price contract is entered into does not constitute a "transaction" because there is no "binding contract" on that date to supply product at a fixed price. Thus, FEA regards each of the various prices fixed for particular deliveries pursuant to variable-price contracts as being, in general, reasonably representative of current market conditions. This treatment is consistent with not considering prices in shipments or deliveries pursuant to fixed price contracts representative of current market conditions, since under such contracts the price for all deliveries is fixed at the time the contract is entered into and is maintained without regard to changes in market conditions for the duration of the contract.

D. RATIONALE FOR THE "BINDING CONTRACT" DEFINITION OF TRANSACTION IN THE CONTEXT OF FIXED-PRICE CONTRACTS

As noted above, a transaction "is considered to occur at the time and place when a binding contract is entered into between the parties."

This "contract" basis for establishing the date of transactions was first adopted for purposes of petroleum price regulations by the Cost of Living Council at the beginning of Phase IV of the Economic Stabilization Program.[8] The same definition of "transaction" was later readopted by FEO and FEA as successor agencies.[9]

This "contract" basis for determining when a "transaction" occurs is distinguished from the date-of-shipment basis that was used for the same purpose in certain phases of earlier price control programs administered by the Cost of Living Council.[10]

A "contract" rather than "shipment" basis for determining when a transaction occurred appears to have been adopted for several reasons. A principal reason related to the fact that petroleum prices increased significantly in the early months of 1973, as noted above. It was therefore thought that prices specified in contracts entered into on May 15, 1973, would more accurately reflect market levels on that date than would prices charged for shipments made on May 15, 1973, since many shipments would presumably have been made under fixed-price contracts entered into in previous months or years. The problem of establishing a fair and representative base period price in the context of a generally rising market was magnified by the fact that, in 1973, long-term fixed-price supply contracts were common in the petroleum industry, due to the general price stability which had previously prevailed. Use of a contract basis for determining when a tranaction occurs was therefore apparently intended, insofar as possible, to screen out from May 15, 1973, price calculations those prices resulting from pre-existing fixed-price contracts, which were not representative of May 15, 1973, market levels.

Another consideration appears to have been the fact that regulated prices under the June 1973 freeze were determined by reference to prices charged in shipments made during the period June 1–8, 1973, (the same "shipment" rule as had been used for determining prices during the Phase I freeze). Shipments made between June 1 and June 8, 1973, could have included shipments made pursuant to contracts entered into after May 15, 1973, as well as shipments made pursuant to contracts entered into on or before May 15, 1973. If a "shipment" basis had been adopted under the Phase IV petroleum regulations, together with a May 15, 1973, base period, prices charged in such shipments could have reflected only contracts entered into on or before May 15, 1973. Given the rising market, a "shipment" basis for May 15, 1973, transactions might therefore have tended generally to set a somewhat lower base period price level for Phase IV than had been set under the preceding freeze, which used a "shipment" basis for June 1–8, 1973, transactions. Thus, adoption of a "contract" basis for transactions and a May 15, 1973, base period minimized the possibility of price rollbacks in August, 1973, when the freeze ended and Phase IV began.

The foregoing considerations indicate that the purpose of the "contract" basis for "transactions" was to afford a base period price level which reflected, as closely as possible, actual market level prices as of May 15, 1973. This differs from a "shipment" basis for "transactions" which, if used, would have included prices at which product changed hands on May 15, 1973, some of which were established under old long-term fixed-price contracts. To the extent such contracts were entered into long before May 15, 1973, they would not have been

[8] 6 CFR 150.352, 150.358(g), 38 FR 22536 (August 22, 1973).

[9] 10 CFR 212.31, 212.82(f), 212.93, 39 FR 1924 (January 15, 1974).

[10] A "shipment" basis (e.g., a "transaction" is "considered to occur at the time of shipment in the case of products") was used for purposes of the Phase I freeze, the freeze which ended Phase III, the Phase IV regulations of general applicability (quoted), and FEO's temporary freeze on diesel fuel prices in February 1974. See definitions of "transaction" in: Econ. Stab. Circ. No. 101, Para. 302, 36 FR 18739, September 21, 1971; 6 CFR 140.2, 38 FR 15768 (June 15, 1973); 6 CFR 150.31, 38 FR 21592 (August 9, 1973); Appendix A to 10 CFR Part 212, 39 FR 4784 (February 7, 1974). The "contract" basis was, however, used in the definition of "transaction" in Phase II. 6 CFR 300.5, 36 FR 23974 (December 16, 1971). The "shipment" basis for transactions for purposes of the Phase IV regulations of general applicability was accompanied by several interrelated regulatory provisions not present under the current price control program, such as the "contracts" provision in 6 CFR 150.76 and the "adjusted freeze price rule" (see fn. 11, below) which, in effect, allowed the use of more recent price levels than permitted by a strict "shipments" test.

likely to reflect May 15, 1973 market levels.

A further consideration relevant to this conclusion is that the definition of "transaction" includes only May 15, 1973, prices which were arrived at through arm's-length bargaining by unrelated persons. By excluding prices determined other than in arm's-length transactions, the intention to consider actual, competitive market prices on May 15, 1973, in establishing base period price levels, is further confirmed.

Finally, it is relevant to this discussion to point out that the "shipment" basis for "transactions" used in Phase I of the Economic Stabilization Program, in the freeze which terminated Phase III, and in the temporary freeze on diesel fuel prices instituted by FEO in February, 1974 (see fn. 10, above) included a "10% rule," under which the freeze price was defined as the highest price at or above which at least 10% of the commodities or services concerned were priced by the seller in transactions with the class of purchaser concerned during the freeze base period.[21] This "10% rule" evidently was intended to avoid the possibly numerous price rollbacks which would have been required if the freeze price had been the weighted average price at which shipments occurred during the freeze base period. Instead rollbacks were required only with regard to those relatively few prices in the base period which appeared anomalously high (i.e., which exceeded the highest price at or above which at least 10% of the products had been sold).

The absence of a "10% rule" under the current petroleum price control program further suggests that a "shipment" test as a general basis for determining when a "transaction" occurs under that program was deliberately rejected. A "shipment" basis without a 10% rule might lead to the following anomalous results: (1) a substantial proportion of prices reflected in "shipments" which exceeded the weighted average (which would have been lower than current market levels to the extent that it reflected shipments under fixed-price contracts) would have been rolled back (and in some cases rolled back, as previously noted, below the Phase III freeze level);[22] and (2) a substantial number of prices for "shipments" which were priced below the weighted average because of long-term fixed-price contracts could not have been increased to the level of the weighted average until the contracts which imposed these restrictions expired.[23]

III. Applying the "Transaction" Definition

A. Written fixed-price contracts

As noted above, a determination as to when a "transaction" occurs must be made first in order to identify whether the prices in a particular "transaction" or "transactions" will be used to determine the May 15, 1973, selling price. If the date of a "transaction" is May 15, 1973, the price in that "transaction" is included in the determination of the May 15, 1973, selling price. If that date is prior to May 15, 1973, the price in that "transaction" could be included in the determination of the May 15, 1973, selling price, but only if there were no other "transactions" with the class of purchaser concerned after that date and before May 16, 1973.

By definition, a "transaction" occurs at the time a "binding contract" is entered into between parties. With respect to written contracts, therefore, a "transaction" will normally occur on the date on which the contract is signed by both parties or otherwise becomes legally binding. It should be noted that, with respect to long-term contracts, the date of entry into such binding written contracts is typically not the date the product was actually shipped to the purchaser.

As the foregoing review indicates, one of the principal purposes of the contract basis for determining when a transaction occurs was apparently to "screen out," insofar as possible, prices on May 15, 1973, which were not representative of May 15, 1973, market levels, i.e., to screen out prices charged in shipments made pursuant to old, fixed-price contracts in favor of prices specified in more recent contracts. Thus, a shipment or delivery pursuant to a fixed-price contract is not considered to be the time a "transaction" occurs (unless the shipment occurs at the same time the long-term contract is entered into); rather, the transaction occurs at the time a binding contract is entered into between the parties. Although the time that a written contract becomes binding can vary, depending on the conduct of the parties and the law of the state concerned, FEA will presume that written fixed price contracts become binding when both parties have executed the agreement. This presumption can be overcome by an appropriate showing that the contract became binding at some other time pursuant to the applicable laws of the jurisdiction concerned.

To the extent that there were any contracts which specified a fixed price, but did not specify definite volumes, the general considerations with respect to fixed-price contracts, as discussed above, apply, and the date of entry into such a contract is regarded as the time when the "transaction" occurs. If it is necessary to weight average that price, the volume of the first delivery made pursuant to the contract is used. Since the volume figure used for purposes of weight-averaging serves simply to approximate the relative importance of the price charged with respect to the "transaction" concerned, the fact that the date of the first delivery under the contract varies from the date the fixed price contract was entered into and on which the "transaction" is therefore regarded to have occurred, does not result in any departure from the "market-level" pricing concepts discussed above, and is consistent with the language of the definition in 10 CFR 212.31.

B. Written variable-price contracts

Contracts containing fixed price terms should generally not present problems in connection with the application of the definition of "transaction." Thus, for example, a binding contract entered into on May 15, 1973, pursuant to an arm's-length negotiation between unrelated persons, which contains a fixed price term, is clearly a base period "transaction" regardless of whether shipment pursuant thereto occurred on May 15, 1973, or at a later date, because a single price is specified in the contract as of the date the transaction occurs. Similarly, such a contract entered into on May 1, 1973, is a May 1, 1973, "transaction," and would be a base period "transaction" reflecting a base period price only if the seller concerned had no "transaction" which occurred after May 1 and before May 16, 1973, with respect to the product and class of purchaser concerned.

The use of a "contract" basis for "transactions" which, in turn, are used to calculate May 15, 1973, selling prices gives rise to certain problems the extent of which was not fully apparent until FEA had gained wide experience in auditing records of refiners and resellers/retailers. Chief among these problems is the fact that many supply contracts in the petroleum industry do not have fixed price terms, but may refer to extrinsic price mechanisms, or to other future price determinants which were uncertain at the time the contracts were entered into. Such variable-price terms

[21] See, e.g., definition of "freeze price" in 6 CFR 140.2 (38 FR 15768, June 15, 1973). A "10% rule" was not included in the Phase IV price rules of general applicability, even though those rules included a "shipment" basis for transactions (see fn. 10, above), evidently because for purposes of that program the base price was the adjusted Phase III freeze price or the Phase IV base price, whichever was higher (6 CFR 150.73, 38 FR 21592 August, 9, 1973), and because prices specified in contracts entered into before the Phase III freeze with respect to delivery occurring in Phase IV were specifically granted lawful status under Phase IV rules (6 CFR 150.56, 38 FR 21592, 38 FR 30266, November 2, 1973).

[22] Of course, even under the "contracts" definition employed in the Phase IV petroleum price regulations, the possibility still existed that rollbacks would occur in some sellers' prices because a seller's weighted average price in transactions (i.e., contracts with established prices) on May 15, 1973, might be lower in a particular case than that seller's maximum lawful prices under the shipments test during the freeze ending Phase III. The fact is, however, that the likelihood of such rollbacks was minimized, as noted above, by use of a contracts rather than a shipments test on May 15, 1973, and by the ability of most sellers under the initial Phase IV petroleum price rules to pass through increased product costs incurred since May 15, 1973, in their selling prices.

[23] It should be noted in connection with weight-averaging to determine the May 15, 1973, selling price applicable to the product and class of purchaser concerned, that "spot" purchasers are normally in a different class of purchaser than long-term contract purchasers. See Section B of FEA Ruling 1975-2.

present special problems because the "screening out" process, which eliminates prices in "transactions" from consideration as May 15, 1973 prices, depending on the date the "transaction" occurred, assumes that a transaction which is included or excluded according to the date on which it occurred will entail a binding obligation as of that date to supply a covered product at a fixed price, which is then to be used for purposes of making the weighted average May 15, 1973, price calculation.

Information now available to FEA indicates that many long-term contracts for the sale of products entered into on or prior to May 15, 1973, employed price adjustment clauses which permitted the price charged in any given delivery of product pursuant to the contract to fluctuate with market conditions existing on the date of delivery. For example, such contracts might specify a base price or posting, possibly with a discount, plus a formula for price adjustments as certain published price reports changed. In such cases, on the day of entry of such contracts, insufficient information was provided within the written terms of the contract for use in computation of a weighted average price without reference to events occurring after the date of the contract. Price adjustment or price "escalator" clauses made it impossible on the date the "binding contract" was entered into to determine the price at which a covered product would change hands in the future.

The definition of "transaction" does not specifically address the question of contracts without fixed price terms and how these contracts are to be treated in calculating weighted average May 15, 1973, selling prices. This problem must be resolved in some appropriate manner, however, since the calculation of the May 15, 1973, selling price is the foundation or starting point for determining maximum allowable selling prices under the FEA price regulations. FEA believes that the proper interpretation of the "transaction" definition with respect to a contract without a fixed price term is that such a variable-price contract is merely a general sales agreement which, because of its lack of a fixed price that would reflect market level prices on the date the contract was entered into, cannot be regarded as a "binding contract" for purposes of the definition of "transaction" and the computation of May 15, 1973, selling prices. Within the framework of such a general sales agreement, one or more subsidiary contracts occur, and they are presumed to have been entered into on the date the price becomes fixed with respect to a particular delivery. At the time a fixed price is specified with respect to a particular delivery pursuant to the terms of a general sales contract, a "binding contract" arises for purposes of the definition of "transaction."

Thus, for example, if a general sales contract with variable or unspecified price terms was executed on May 1, 1973, and pursuant thereto deliveries were made on May 10 and May 20, 1973 (with the prices for such deliveries fixed pursuant to the general sales contract by reference to posted price in effect on the date of delivery) the subsidiary contract of May 20 could not qualify as a base period "transaction" because it was entered into after May 15, 1973, but the subsidiary contract of May 10, 1973, could represent a base period "transaction" (at the price specified for the May 10 delivery) if there were no other "transactions" with respect to the product and class of purchaser after that date and before May 16, 1973. The general sales contract executed on May 1, 1973, fails as a base period "transaction" in this case because it lacks the fixed price data necessary for computation of a weighted average price.

c. NO WRITTEN CONTRACT

In the case of retailers, the distinction between "contracts" and "shipments" is typically of little significance, as in most cases the normal cash or credit sales to consumers involve either an unwritten or written sales "contract" and a simultaneous "shipment."

The "binding contract" referred to in the transaction definition need not be written, of course, but may arise and become binding orally or through a course of dealing. For example, a binding contract may arise with respect to a "spot" sale when product is furnished in exchange for consideration, even though no written agreement is executed. In cases not involving a written contract, the contract is typically not binding until delivery occurs. Due to the inherent difficulties in determining when contracts for sales which are not pursuant to a written agreement become binding, the date the product is delivered is presumed to be the date a binding contract is entered into. Thus, in the absence of a written contract, a "transaction" is presumed for purposes of FEA's regulations to occur on the date the product is delivered. To the extent that it can be established that a binding contract existed under the applicable state law prior to the time of delivery with respect to a sale which is not made pursuant to a written contract, this presumption that the binding contract was entered into at the time of delivery can be rebutted.

Thus, for example, if a delivery of product under an oral contract occurred subsequent to May 15, 1973, the contract is presumed to constitute a post-May 15 "transaction" and therefore would not qualify as a base period "transaction" unless this presumption is rebutted. If delivery occurred on May 15, 1973, under the same facts, the contract would constitute a May 15, 1973, "transaction" and would be included in the determination of the May 15, 1973, selling price. Finally, delivery occurring before May 15, 1973, in the absence of a written contract, could constitute a base period "transaction" only if there were no other "transactions" with respect to the product and class of purchaser concerned after the date of delivery and before May 16, 1976. However, as noted above, if the presumption that the unwritten contract became binding at the time of delivery can be overcome, the results would be modified to turn upon the date established under the applicable state law as the date the contract became binding.

d. WEIGHT AVERAGING

Once a seller determines the appropriate date for each "transaction" in accordance with the foregoing discussion, it is a fairly simple matter to calculate the weighted average price on the base date. For example, if a firm had three "transactions" involving product X with members of a particular class of purchaser on May 15, 1973, and those three "transactions" concerned the sale of 3,000 gallons at 20.5 cents/gallon, 5,000 gallons at 20.7 cents/gallon, and 10,000 gallons at 21.0 cents/gallon, respectively, the weighted average price would be calculated as follows:

$$\frac{(3{,}000\times 20.5¢)+(5{,}000\times 20.7¢)+(10{,}000\times 21.0¢)}{3{,}000+5{,}000+10{,}000}$$

$$=\frac{\$615+\$1{,}035+\$2{,}100}{18{,}000\ \text{gal}}=\text{Weighted average price}=20.83\ \text{cents/gallon.}$$

On the other hand, if the firm had only one "transaction" involving product X with the class of purchaser concerned on May 15, 1973, and that was the first transaction in the example above (3,000 gallons at 20.5 cents/gallon), the "weighted average price" under the regulations would be 20.5 cents/gallon. In such a case, the volume, or number of gallons, would be immaterial.

Of course, if there were no "transactions" with respect to the product and class of purchaser concerned on May 15, 1973, the seller would, pursuant to § 212.83(a)(3) or § 212.93(d), look to the "transaction(s)" on the most recent day preceding May 15, 1973, on which a "transaction" occurred in order to make the necessary weighted average price computations.

IV. EXAMPLES

The application of the "transaction" definition may be demonstrated by the analysis of the hypothetical situations presented below. These hypothetical situations are merely exemplary and many variations of such sales undoubtedly exist.

1. In the four examples which follow, Firm X enters into a separate written contract for the sale of gasoline with each of the four purchasers which comprise a particular class of purchaser.

(a) On May 15, 1973, Firm X entered into a written contract with Purchaser A calling for the sale and delivery on June 15, 1973, of 3,000 gallons of gasoline at a price of 20.5 cents per gallon. Pursuant to this contract, Firm X delivered

the 3,000 gallons to Purchaser A on June 15, 1973.

There can be no question that a May 15, 1973, "transaction" occurred for the purposes of the price rules. The contract was entered into by both parties on May 15, 1973, and both the quantity of gasoline to be sold and the price were certain as of that date and, thus, are able to be employed in calculating Firm X's maximum allowable price.

(b) On May 15, 1973, Firm X entered into a one-year contract for the sale of gasoline to Purchaser B. The contract called for monthly deliveries of 5,000 gallons. The price for gasoline sold pursuant to the contract was governed by a contractual clause which set the price over the term of the contract by reference to specified published price reports concerning certain prices in effect on the date of delivery. Deliveries pursuant to the May 15, 1973 contract commenced on July 1, 1973.

The requirement of the price rule that the maximum allowable price reflect the weighted average price in transactions with the class of purchaser concerned on May 15, 1973, or earlier makes it necessary that before any "transaction" can be used to calculate the weighted average price, it must reflect market prices current as of May 15, 1973, or earlier. In this case, the price at which the first delivery would be made (on July 1, 1973) was not specified in the contract and the price at which the product ultimately changed hands pursuant to the terms of the contract reflected market conditions as of July 1, 1973, rather than as of May 15, 1973. Therefore, pursuant to the discussion in Section III.B. of this ruling, the date on which a price is fixed for a particular delivery under a variable-price contract is the date on which a "transaction" occurs; and since the first date on which a price was fixed for a delivery in this example did not occur until July 1, 1973, it is not a base period "transaction" and is excluded from Firm X's weighted average price calculations applicable to the product and class of purchaser concerned.

(c) On May 15, 1973 Firm X entered into a contract for the sale of gasoline to Purchaser C over a one-year period beginning with July 1973. The price of the gasoline was fixed by the contract at 21.0 cents per gallon, with the amount of gasoline to be purchased to be determined by the purchaser's needs, subject to certain maximum and minimum limitations. Purchaser C accepted delivery of 10,000 gallons on July 1, 1973.

The contract described in this example specifies a fixed price at which the product will be sold over the term of the contract and constitutes a May 15, 1973, "transaction." In order to determine the volume to be attributed to that price, the quantity of gasoline included in the first delivery on July 1, 1973, is used. Firm X therefore weight-averages the price pursuant to this contract at the July 1 delivery volume with other May 15, 1973, "transactions."

(d) Firm X entered into a one-year contract with Purchaser D under the same terms and conditions specified in Example 1(c), except that the contract was entered into on May 1, 1973. The first delivery under the contract occurred on July 1, 1973, as in Example 1(c).

Entry into a fixed-price contract on May 1, 1973, constitutes a "transaction" on that date. This May 1, 1973, "transaction" is not a base period "transaction," however, because Firm X had "transactions" on May 15, 1973, with Purchasers A and C. Therefore, it is not included in the weighted average price calculations for Firm X with regard to the product and class of purchaser concerned.

Calculation of Weighted Average Price in Example 1:

$$\frac{(3{,}000\times 20.5\text{¢})+(10{,}000\times 21.0\text{¢})}{3{,}000+10{,}000}=\frac{\$615+\$2{,}100}{13{,}000\text{ gal}}$$

$$=\text{Weighted average price}=20.88\text{ cents/gallon.}$$

2. In the three examples which follow, Firm Y enters into a separate written contract for the sale of gasoline with each of the three purchasers which comprise a particular class of purchaser.

(a) Pursuant to a one-year contract entered into on April 1, 1973, that called for deliveries of gasoline in 3,000 gallon amounts over the period of the contract at a fixed price of 15.2 cents per gallon, Firm Y delivered 3,000 gallons of gasoline to Purchaser A on May 15, 1973.

This delivery of gasoline on May 15, 1973, pursuant to a previously executed fixed-price contract in this example does not constitute a "transaction." Rather, the "transaction" in this example occurred with the entry into the fixed-price contract on April 1, 1973.

(b) On May 15, 1973, Firm Y delivered 10,000 gallons of gasoline at 16 cents per gallon to Purchaser B. The delivery was made pursuant to a one-year contract entered into on April 1, 1973, which called for the sale of 10,000 gallons of gasoline each month during the one-year period at prices to be determined by reference to specified published price reports concerning certain prices in effect on the date of delivery. A previous delivery had been made to Purchaser B on April 10 under this contract at a price of 15.5 cents per gallon.

In this example the contract entered into on April 1, 1973, was a variable-price contract and a "transaction" did not, therefore, occur on that date. Rather, the May 15, 1973, fixing of a price for a particular delivery constituted a fixed-price subsidiary contract pursuant to the long-term variable-price general contract and is therefore the date on which a "transaction" occurred. This "transaction" more accurately reflects market prices on May 15, 1973, than would the price in any other delivery pursuant to the variable-price contract, such as the April 10, 1973, delivery price.

(c) On January 1, 1973, Firm Y entered into a one-year contract for sale of gasoline to Purchaser C at 15.0 cents a gallon in amounts to be determined by the buyer subject to certain maximum and minimum limitations. Firm Y delivered 6,000 gallons of gasoline to Purchaser C under this contract on January 15, 1973, and 5,000 gallons of gasoline to Purchaser C on May 15, 1973.

The "transaction" in this example occurs on January 1, 1973, when the fixed-price contract was entered into. The amount of gasoline supplied on January 15, 1973, supplies the volume data attributable to that price for purposes of computing a weighted average price. However, since a more recent "transaction" of Firm Y (before May 16, 1973) occurred with Purchaser B (on May 15, 1973), Firm Y excludes the "transaction" with Purchaser C which occurred on January 1, 1973, in computing its weighted average price. For the same reason, Firm Y must also exclude, of course, the April 1, 1973, "transaction" with Purchaser A. Therefore, Firm Y's "weighted average price" in this case is the price in the single May 15, 1973, "transaction" with Purchaser B—i.e., 16.0 cents/gallon.

V. Exception Requests

FEA is aware that there have been a variety of interpretations concerning the application of the "transaction" definition to variable-price contracts. Although FEA believes the interpretation set forth in this ruling most accurately reflects the purposes and objectives of the "transaction" definition and related price regulations, in light of all the considerations set forth in detail in Sections II–IV above, firms which have adopted differing interpretations of the term may suffer gross inequity or severe hardship. Accordingly, FEA will receive and process requests for exception from the application of the transaction definition as set forth herein and in connection with any such requests will consider whether the usual presumption against retroactive relief should be applied.

Issued in Washington, D.C., March 15, 1977.

Eric J. Fygi,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-8291 Filed 3-16-77;10:45 am]

Title 12—Banks and Banking

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

PART 335—SECURITIES OF INSURED STATE NONMEMBER BANKS

Disclosure of Interim Results in Financial Reports; Correction

In FR Doc. 77-7017 appearing at page 13104 in the Federal Register of Wednesday, March 9, 1977, the following changes should be made:

1. On page 13105, § 335.44A(b) is corrected in the second line of that paragraph by substituting the number "45" for the number "30".

2. On page 13106, § 335.44H(e) is corrected in the last line of that paragraph by substituting the word "Standards" for the word "Principles".

Dated: March 15, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc.77-8348 Filed 3-18-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 77-NW-6-AD; Amdt. 39-2852]

PART 39—AIRWORTHINESS DIRECTIVE

Boeing Model 727 Series Airplane; Engine Forward Fuel Feed Hose Assemblies

AGENCY: Federal Aviation Administration/DOT (FAA).

ACTION: Final Rule.

SUMMARY: This amendment to AD 77-03-02, Amendment 39-2826 to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) (42 FR 6581) clarifies paragraph B of AD 77-03-02 issued January 28, 1977, by specifying the exact engine forward fuel feed hose assemblies that are to have clamps installed which provide a standoff function within the fuel feed hose assembly shrouds. The amendment is effective immediately with respect to all known U.S. operators of Boeing Model 727 airplanes.

EFFECTIVE DATE: March 30, 1977.

FOR FURTHER INFORMATION CONTACT:

J. M. Walker, Engineering and Manufacturing Branch, Northwest Region, FAA, FAA Building, Boeing Field, Seattle, Washington 98108, (206-767-2520).

SUPPLEMENTARY INFORMATION: It has come to the attention of the FAA that confusion exists among some operators regarding which forward fuel feed hose assemblies should have the hose clamps fitted to them in compliance with AD 77-03-02. It was the intent that only those hose assemblies specified in the service bulletin were to be fitted with the clamps. The clamps act as standoffs preventing the hose from chafing on the inside bottom shroud surface as well as elevating the hose above water and other contaminants that may collect and accumulate temporarily on the shroud bottom inside surface. The No. 2 hose assembly located in the same shroud as the No. 3 hose is routed in such a manner that it does not chafe on the shroud or lie in the water that can collect in the low points in these shrouds. Therefore, the standoff function of the clamps is not necessary for this hose assembly installation.

Since this amendment clarifies the compliance requirements and adds no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be effective in less than 30 days.

This rule was coordinated with the Boeing Company and the operators through the Air Transport Association (ATA) prior to issuance. There were no substantial comments.

§ 39.13 [Amended]

Accordingly, pursuant to the authority delegated to me by the Administrator (14 CFR § 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations, Airworthiness Directive 77-03-02, Amendment 39-2826 is hereby amended by:

1. Revising paragraph B to read: "B. Within 3,000 hours time in service, install hose clamps on Engine No. 1 and Engine No. 3 forward fuel feed hose assemblies in accordance with Boeing Service Bulletin 727-28-51, Figure 4, pages 28 and 29, steps 1, 2, and 4 issued November 12, 1976, or later FAA approved revision."

(Secs. 313(a); 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a); 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

NOTE: An evaluation of the anticipated impacts has been made and it is expected that the final regulation is neither costly nor controversial. The preparation of an Inflation Impact Statement under Executive Order 11321, as amended by Executive Order 11949, and OMB Circular A-107 is not required.

Issued in Seattle, Washington on March 10, 1977.

C. B. WALK, Jr.,
Director,
Northwest Region.

NOTE.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1976.

[FR Doc.77-8296 Filed 3-18-77;8:45 am]

[Airspace Docket No. 77-SO-5]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Amendment to Federal Register Document

On February 22, 1977, FR Doc. No. 77-5270 was published in the FEDERAL REGISTER (42 FR 10314), amending Part 71 of the Federal Aviation Regulations by designating the Plains, Ga., transition area.

In the amendment, the geographical coordinates of Peterson Field were published as "(Lat. 30°05'25" N., Long. 84°20'20" W.)" whereas the correct coordinates are Lat. 32°05'25" N., Long. 84°22'20" W. It is necessary to amend the FEDERAL REGISTER document to reflect this change. Since this amendment is editorial in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, effective immediately, FR Doc. No. 77-5270 is amended as follows:

In line three of the description "* * * (Lat. 30°05'25" N., Long. 84°20'20" W.) * * *" is deleted and "* * * (Lat. 32°05'25" N., Long. 84°22'20" W.) * * *" is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in East Point, Ga., on March 3, 1977.

PHILLIP M. SWATEK,
Director,
Southern Region.

[FR Doc.77-8295 Filed 3-18-77;8:45 am]

[Airspace Docket No. 76-NE-33]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Control Zone; Revision of Lebanon, New Hampshire, Control Zone

AGENCY: Federal Aviation Administration/DOT (FAA).

ACTION: Final Rule, Correction.

SUMMARY: This rule corrects the description appearing in FR Doc. 77-4210 on page 8364 of the FEDERAL REGISTER of Thursday, February 10, 1977 (41 FR 8364), of the Lebanon, New Hampshire, control zone by changing a magnetic bearing to a true bearing.

SUPPLEMENTARY INFORMATION: The alteration of the Lebanon, New Hampshire, control zone (FR 77-4210) appearing at page 8364 in the FEDERAL REGISTER of Thursday, February 10, 1977 (41 FR 8364) was described with magnetic compass bearings rather than true bearings in three places. A correction published in the FEDERAL REGISTER of Thursday, March 3, 1977, at page 12167 (41 FR 12167) changed two of these magnetic bearings to true bearings. This correction changes the third magnetic bearing to a true bearing.

§ 71.171 [Amended]

Accordingly, the Federal Aviation Administration corrects § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR 71.171) as follows:

1. By deleting from the description of the Lebanon, New Hampshire, control zone the words: "* * * the White River NDB 075° bearing * * *"

2. By inserting in lieu thereof the words: "* * * the White River NDB 060° bearing * * *"

This correction is made under the authority of section 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348(a)] and of section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)].

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Burlington, Massachusetts, on March 9, 1977.

QUENTIN S. TAYLOR,
Director,
New England Region.

[FR Doc.77-8298 Filed 3-18-77;8:45 am]

[Airspace Docket No. 76-NW-25]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Federal Airway

On November 26, 1976, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (41 FR 52064) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate two airways in the State of Washington.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. No comments were received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 GmT, June 16, 1977, as hereinafter set forth.

§ 71.123 [Amended]

§ 71.123 (42 FR 307) is amended as follows:

1. In V-4 "Pendleton, Oreg.;" is deleted and "Pendleton, Oreg.; including a north alternate from Seattle via Ellensburg, Wash.; Pasco, Wash., to Pendleton;" is substituted therefor.

2. V-281 is added as follows:

"V-281 from Moses Lake, Wash., to Pasco, Wash."

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on March 11, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-8297 Filed 3-18-77;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

[Reg. OR-112; Amdt. 58]

PART 385—DELEGATIONS AND REVIEW OF ACTIONS UNDER DELEGATION; NONHEARING MATTERS

Expansion of Delegated Authority of the Chief, Passenger and Cargo Rates Division, Bureau of Economics, To Approve or Disapprove Certain IATA Agreements

Effective: March 15, 1977.

Adopted: March 15, 1977.

Section 385.14(a)(3) of the Board's Organization Regulations delegates authority to the Chief, Passenger and Cargo Rates Division, Bureau of Economics, to approve or disapprove eight listed types of fare and rate agreements of the International Air Transport Association (IATA). The delegated authority is presently limited, however, to the treatment of such agreements that are not reached at regular or special traffic conferences. In light of the frequency of these IATA conferences, however, it is no longer meaningful to distinguish such agreements by the procedure under which they are adopted. By deleting the exclusion of authority regarding "traffic conference" agreements, this amendment grants the delegated authority in terms of the substance of the agreements.

Also, since the processing of agreements concerning currency-related surcharges or discounts on foreign-orginating air transportation has become routine and raises no policy issue, we have determined to add them to the list of types of agreement concerning which the Board's authority is delegated.

Since this amendment is an administrative matter affecting a rule of agency organization and procedure, the Board finds that notice and public procedure are unnecessary, and that the rule may become effective immediately.

In consideration of the foregoing, the Board hereby amends Part 385 of its Organization Regulations (14 CFR Part 385), effective March 15, 1977, in the following manner:

Amend paragraph (a)(3) of § 385.14, by deleting the words "other than those establishing fares and rates directly applicable in air transportation as agreed at regular and special traffic conferences," and by adding a new paragraph (a)(3)(ix), the amended section to read in part, as follows:

§ 385.14 Delegation to the Chief, Passenger and Cargo Rates Division, Bureau of Economics.

(a) * * *

(3) Issue orders approving, disapproving, or approving subject to conditions, IATA agreements relating to fare and rate matters, with respect to the following:

* * * * *

(ix) Agreements establishing, amending, or terminating a surcharge or discount on foreign-originating air transportation to reflect a currency fluctuation.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324. Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989; 49 U.S.C. 1324 (note).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-8397 Filed 3-18-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5803A; 34-13291A]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Adoption of Beneficial Ownership Disclosure Requirements; Correction

A correction should be made in FR Doc. 77-6358 appearing at page 12342 in the FEDERAL REGISTER of March 3, 1977 (Release Nos. 33-5808, 34-13291, February 24, 1977). The amendments announced in this release fail to reflect the amendments to Schedule 14A under the Securities Exchange Act, § 240.14a-101, which were adopted in Release Nos. 34-13156, 35-19853, IC-9604 and AS-206 (January 13, 1977) (42 FR 4424). Therefore, the following corrections should be made:

On page 12354, column 2, paragraph (f) and (g) of Item 5 of Schedule 14A should be changed to read as follows:

§ 240.14a-101 Schedule 14A. Information required in proxy statement.

* * * * *

(f) If, to the knowledge of the persons on whose behalf the solicitation is made, a change in control of the issuer has occurred since the beginning of its last fiscal year, state the name of the person(s) who acquired such control, the amount and the source of the consideration used by such person or persons; the basis of the control, the date and a description of the transaction(s) which resulted in the change of control and the percentage of voting securities of the issuers now beneficially owned directly or indirectly by the person(s) who acquired control; and the identity of the person(s) from whom control was assumed. If the source of all or any part of the consideration used is a loan made in the ordinary course of business by a bank as defined by section 3(a)(6) of the Act, the identity of such bank shall be omitted provided a request for confidentiality has been made pursuant to section 13(d)(1)(B) of the Act by the person(s) who acquired control. In lieu thereof, the material shall indicate that the identity of the bank has been so omitted and filed separately with the Commission.

Instructions. 1. State the terms of any loans or pledges obtained by the new control group for the purpose of acquiring control, and the names of the lenders or pledgees.

2. Any arrangements or understandings among members of both the former and new control groups and their associates with respect to election of directors or other matters should be described.

(g) Describe any contractual arrangements, including any pledge of securities of the issuer, or any of its parents, known to the persons on whose behalf the solicitation is made, the operation of the terms of which may at a subsequent date result in a change in control of the issuer.

* * * * *

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 14, 1977.

[FR Doc.77-8370 Filed 3-18-77;8:45 am]

[Release No. 34-13362]

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

Brokers and Dealers Effecting Transactions in Municipal Securities

AGENCY: Securities and Exchange Commission.

ACTION: Rule Interpretation.

SUMMARY: This release extends from April 1 to April 25, 1977 the interpretations of §§ 240.17a-3, 240.17a-4 and 240.17a-11 previously announced by the Commission. These interpretations are intended to provide interim recordkeeping and preservation requirements for brokers and dealers effecting transactions solely in municipal securities until the Municipal Securities Rulemaking Board's Rules G-8, G-9 and G-10 become effective on April 25, 1977.

EFFECTIVE DATE: April 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Daniel J. Piliero II, Associate Director, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549. (202-755-1390).

SUPPLEMENTARY INFORMATION:

The Securities and Exchange Commission today announced the extension until April 25, 1977 of certain interpretations of §§ 240.17a-3, 240.17a-4 and 240.17a-11 pertaining to the recordkeeping and preservation requirements of brokers and dealers effecting transactions solely in municipal securities, announced in Securities Exchange Act Release No. 13108 (December 23, 1976) (42 FR 759 (January 4, 1977)).[1]

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 14, 1977.

[FR Doc.77-8365 Filed 3-18-77;8:45 am]

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[1] The effective date of Rules 17a-3(e) and 17a-4(h) need not be altered as a result of this action. These provisions merely establish an alternative method of compliance (i.e. G-8, G-9, and G-10) which does not become effective until April 25, 1977.

Title 18—Conservation of Power and Water Resources

CHAPTER III—DELAWARE RIVER BASIN COMMISSION

PART 401—RULES OF PRACTICE AND PROCEDURE

Cost of Adjudicatory Hearings

AGENCY: Delaware River Basin Commission.

ACTION: Final Rule.

SUMMARY: The action amends the Commission's Rules of Practice and Procedure (18 CFR Part 401) by adding a new provision relating to the costs of adjudicatory hearings. Public agencies and private organizations require Commission approval for certain types of proposed water resources projects pursuant to Section 3.8 of the Delaware River Basin Compact. When applications for such approval elicit substantial objection from interested parties, the Commission may conduct an adjudicatory hearing to educe further information through formal submission of evidence and cross-examination (see Part 401, Subpart F-Conduct of Hearings). The amendment provides that the costs of such adjudicatory hearings shall be borne by the agency or organization applying for project approval from the Commission.

DATES: The amendment was the subject of a public hearing held by the Commission on October 30, 1974, in Trenton, New Jersey. Notice of that hearing, including the text of the amendment, appeared in the Federal Register on October 18, 1974, and was also distributed widely throughout the Delaware Basin. The amendment was approved by the Commission on December 4, 1974 (Resolution No. 74-16), and became effective on that date.

ADDRESSES: None.

FOR FURTHER INFORMATION CONTACT:

W. Brinton Whitall, Secretary, Delaware River Basin Commission, Post Office Box 7360, West Trenton, New Jersey 08628. Phone: 609-883-9500.

SUPPLEMENTARY INFORMATION:

None.

AMENDMENTS

18 CFR Part 401 is amended by the addition to Subpart F thereof of the following:

§ 401.86 Assessment of costs.

(a) Whenever an adjudicatory hearing is required, the costs thereof, as herein defined, shall be assessed by the hearing officer to the applicant. For the purposes of this section costs include all incremental costs incurred by the Commission, including, but not limited to, hearing examiner and expert consultants reasonably necessary in the matter, stenographic record, rental of the hall and other related expenses.

(b) Upon the scheduling of a matter for adjudicatory hearing, the Secretary shall furnish to the applicant a reasonable estimate of the costs to be incurred under this section. The applicant may be required to furnish security for such costs either by cash deposit or by a surety bond of a corporate surety authorized to do business in a signatory state.

§§ 401.86 and 401.87 [Redesignated]

Sections 401.86 and 401.87, as presently codified in 18 CFR, are to be renumbered 401.87 and 401.88, respectively.

W. BRINTON WHITALL,
Secretary.

[FR Doc.77-8331 Filed 3-18-77;8:45 am]

PART 401—RULES OF PRACTICE AND PROCEDURE

Projects Affecting the Water Resources of the Delaware Basin

AGENCY: Delaware River Basin Commission.

ACTION: Final Rule.

SUMMARY: The Commission reviews proposed projects having a substantial effect on water resources of the Delaware River Basin, and may grant or withhold approval thereof pursuant to Section 3.8 of the Delaware River Basin Compact. Procedures relating to the review of projects are set forth in the Commission's Rules of Practice and Procedure (18 CFR Part 401, Subpart C). The amendments (1) allow for greater flexibility in determining whether a proposed project would have a substantial effect on basin water resources, (2) provide for greater reliance by the Commission upon technical review work by state agencies, (3) add two new categories of projects subject to Commission approval pursuant to Section 3.8 of the Compact, and (4) terminate Commission involvement in granting water quality certifications pursuant to Section 401 of the Federal Water Pollution Control Act.

The two additional categories of reviewable projects relate to (1) regional pollution control plans prepared pursuant to the Federal Water Pollution Control Act and (2) state and local standards of flood plain regulation.

DATES: The amendments were the subject of a public hearing held by the Commission on November 10, 1976, in Philadelphia, Pennsylvania. Notice of that hearing, including the text of the amendments, appeared in the FEDERAL REGISTER on October 26, 1976, and was also distributed widely throughout the Delaware Basin. The amendments were approved by the Commission on November 10, 1976 (Resolution No. 76-20), and became effective on that date.

ADDRESSES: None.

FOR FURTHER INFORMATION CONTACT:

W. Brinton Whitall, Secretary, Delaware River Basin Commission, Post Office Box 7360, West Trenton, New Jersey 08628. Phone: 609-883-9500.

SUPPLEMENTARY INFORMATION: The administration of the amendments relating to project review under Section 3.8 of the Compact is governed by administrative agreements between the Commission and the States of New York, Pennsylvania, New Jersey and Delaware. The addition of state and local flood plain regulations to the list of reviewable projects is designed to give effect to standards of flood plain use recently adopted by the Commission (see 18 CFR Part 420).

18 CFR Part 401 is amended by the following changes in Subpart C thereof:

1. Section 401.35 is amended by the addition thereto of two new paragraphs (d) and (e) to read as follows:

§ 401.35 Classification of projects for review under section 3.8 of the Compact.

* * * * *

(d) Except as otherwise provided by § 401.40 the sponsor shall submit an application for review and approval of a project included under paragraph (b) of this section through the appropriate agency of a signatory party. Such agency will transmit the application or a summary thereof to the Executive Director, pursuant to Administrative Agreement, together with available supporting materials filed in accordance with the practice of the agency of the signatory party. The Executive Director will thereupon determine for the Commission whether or not the proposed project could have a substantial effect upon the water resources of the basin within the meaning of the Compact and the Rules of Practice and Procedure. In making such determination the Executive Director shall be guided by his findings as to the following factors:

(1) The impact of the project on environmentally sensitive land areas or species of plant or animal life.

(2) The potential of the project and its distribution or collection systems to induce significant changes in numbers, distribution or character of population or economic activity.

(3) The magnitude of proposed water withdrawal or waste discharge in relation to minimum streamflow, aquifer yield or water quality.

(4) The size of the project and distribution or collection system and areal extent and duration of its environmental impact.

(5) The effect of the project on public health, safety or general welfare, and historic and cultural properties.

(6) The effect of the project on surface or groundwaters in another state.

(7) The effect of the project on transfers of water into or out of the basin or from one sub-basin to another.

(8) The cost of the project and nature and magnitude of resources required for its implementation.

(9) The effect of the project on flood flows and storm water runoff.

(10) Any other facts which in a particular case may be relevant to the protection of the integrity of the Comprehensive Plan.

(11) The impact of the project on aquatic life including fisheries.

(e) Projects determined by the Executive Director to have a substantial effect will be subject to approval by the Commission pursuant to Section 3.8 and Article 11 of the Compact (to the extent applicable). Projects determined by the Executive Director not to have a substantial effect on the water resources of the basin will not be subject to further review or action by the Commission. The Executive Director shall notify the sponsor of the project, the agency of the signatory party reviewing the project, and the governing body of the municipality, and the planning board of the county in which the project is located of his initial determination on the question of substantial effect. Notice to such interested parties shall be given by certified mail, return receipt requested. The Executive Director shall also notify by regular mail all members of the Commission and of the Federal Field Committee. He shall also cause to be published in a newspaper of general circulation in that municipality, at least once, a notice of such determination. If no objection is made to the Executive Director's initial determination, it shall become final ten days after publication as above. Any interested party objecting to the determination may, within ten days of the newspaper publication, object to such determination and appeal to the Executive Director by letter for reconsideration. Following such reconsideration, if requested, the Executive Director shall serve notice upon the agency of the signatory party, the applicant and each such objector of his final determination. Any such party may appeal such final determination to the Commission by notice in writing served upon the Executive Director within 14 days after the service of the Executive Director's decision upon reconsideration. The Commission will determine such appeal at a regular meeting thereafter.

2. Section 401.41 is amended by revising paragraph (b) and adding new paragraph (c) to read as follows:

§ 401.41 Preliminary action; informal conference; emergencies.

* * * * *

(b) The appropriate agency of a signatory party shall perform a technical review for the Commission, in accordance with Administrative Agreement, of each project finally determined to have a substantial effect on the water resources of the basin; except that the Commission staff will perform the technical review: (1) whenever the agency of the signatory party is itself the sponsor, or (2) whenever the agency of the signatory party does not have the necessary regulatory jurisdiction, or (3) upon request of the agency of the signatory party; and (4) as to those projects which are subject to an environmental assessment or environmental impact statement under these Rules of Practice and Procedure and the National Environmental Policy Act.

(c) Upon completion of its technical review, the agency of the signatory party shall, in accordance with Administrative Agreement, prepare and file with the Executive Director an action report with respect to the project. The Executive Director shall prepare a memorandum of comment stating his concurrence or nonconcurrence with the findings and recommendations of the action report. The report, memorandum, and a proposed docket decision with reference thereto shall be placed before the Commission by the Executive Director at its next regular meeting. Whenever time permits, a copy of the proposed docket decision shall be furnished to the applicant, and the applicant shall be given an opportunity to comment thereon and to consent to the conditions stated therein, before action by the Commission. The Commission will act upon the project in accordance with Section 3.8 and Article 11 of the Compact (to the extent applicable).

§ 401.41 [Amended]

3. Section 401.41 is amended by redesignating paragraph (c) as paragraph (d).

4. Section 401.35(b) is amended by the addition thereto of two new subparagraphs as follows:

§ 401.35 Classification of projects for review under section 3.8 of the Compact.

* * * * *

(b) * * *

(14) Regional wastewater treatment plans developed pursuant to the Federal Water Pollution Control Act.

(15) State and local standards of flood plain regulation.

* * * * *

§ 401.46 [Deleted]

5. Subpart C is amended by the deletion of Section 401.46 thereof in its entirety.

W. BRINTON WHITALL,
Secretary.

[FR Doc.77-8332 Filed 3-18-77;8:45 am]

Title 20—Employees' Benefits

CHAPTER II—RAILROAD RETIREMENT BOARD

PART 200—PROCEDURES AND FORMS

Implementation of Government In the Sunshine Act

On February 14, 1977, the Railroad Retirement Board published in the FEDERAL REGISTER (42 FR 9034) its notice of proposed rulemaking to implement the Government in the Sunshine Act (Pub. L. 94-409, 90 Stat. 1241). Interested persons were invited to comment on the proposed § 200.5 of Part 200 of the Board's regulations on or before March 1, 1977. Inasmuch as the comment period so allowed did not permit the thirty days required for comments under section 3(g) of the Government in the Sunshine Act, the Board has decided to receive and consider comments up to the effective date of these regulations, March 12, 1977, and for three days thereafter, until March 15, 1977. To date, the Railroad Retirement Board has received comments from two sources concerning its regulations, and having given due consideration to the comments received has determined to make certain changes in its regulations as proposed in accordance with those comments.

The comments received from interested members of the public concerned the proposed paragraphs (a)(2), (a)(3), (c)(1), (c)(3), (d)(6), and (f)(1) of § 200.5.

Paragraph (a)(2) of the proposed regulations defined the term "agency business" as follows:

Agency business. For purposes of this section the term "agency business" shall include those duties and functions dele-

gated to the Board or which the Board is authorized to perform by Congress under the Railroad Retirement Act, the Railroad Unemployment Insurance Act, or any other statute. Agency business shall include such matters as joint consideration and rendition of final Board decisions on Appeals, the promulgation of regulations, the adoption of statements of policy which will affect the general public, the establishment of the rate of contributions to be made by employers under the Railroad Unemployment Insurance Act, and the approval of procurement matters. The term "agency business" shall not include matters such as the approval of routine correspondence which does not establish agency policy or precedent, the approval of superior accomplishment awards, the discussion and agreement on the content and wording of testimony to be given before Congress by one Board member on behalf of himself and at least one other member, and the approval of informational leaflets distributed by the Board.

It was the intent of the Board by so defining "agency business" to segregate business significant from the standpoint of public interest from insignificant business, so as not to obscure the important business of the agency by including within the meetings subject to the Sunshine Act the routine matters dealt with by the Board which would be of virtually no interest to the public at large. In the comments received by the Board concerning the proposed paragraph (a)(2), the commenters questioned the Board's authority to restrict the coverage of the open meeting requirement to only meetings concerning significant business and included citations to the legislative history of the Act as supportive of their positions. In view of the comments and upon reconsideration of the desirability of including a restrictive definition of the term "agency business", the Board has determined to delete paragraph (a)(2) from its final regulations as adopted.

Paragraph (a)(3) of the proposed regulations defined the term "public announcement" as follows:

"Public announcement. For purposes of this section the term "public announcement" shall mean the placement in the office of the Secretary of the Board for public inspection of a copy of the document setting forth the subject matter required by this section to be announced to the public."

In a comment regarding this subsection, the commenter suggested that the Board might make the announcement more readily available to the public. The Board agrees with the commenter on this point, and has amended the renumbered paragraph (a)(2) to read as follows:

"Public announcement. For purposes of this section, the term "public announcement" shall mean the posting of the notice of a scheduled meeting as required by this section on a bulletin board available to the public on the first floor of the Board's headquarters building located at 844 Rush Street, Chicago, Illinois 60611."

In a comment received with respect to the proposed paragraph (c)(1), the commenter expressed the opinion that it was not clear from the wording of that subsection whether a determination by the Board to close a meeting or a portion of a meeting would be a two-step determination, considering separately the public interest factor and the exceptions contained in paragraph (c)(3) as contemplated by the Act, or a one-step determination. It was the Board's intent in drafting the proposed paragraph (c)(1) to provide for a two-step determination, and in order to remove any ambiguities in that regard the Board has amended that subsection to read as follows:

"Except as provided in this subsection, every portion of every meeting of the Board shall be open to the public. A meeting or a portion of a meeting may be closed where (i) the Board properly determines that the subject matter of the meeting or portion thereof is such as to make it likely that disclosure of matters falling within one or more of the exceptions set out in paragraph (3) of this subsection would result, and (ii) the Board determines that the public interest would not require that the meeting or portion thereof be open to the public."

In a comment received concerning section (c)(3), the commenter expressed the opinion that the Board exceeded its authority in providing that information concerning a meeting may be withheld where such information would come within one of the exceptions contained in that subsection. The authority of an agency to withhold information concerning a meeting is expressly provided for in section 3(c) of the Government in the Sunshine Act, and the proposed paragraph (c)(3), in connection with paragraph (c)(2) of the Board's regulations, merely makes provision for the withholding of information as provided in the Act. The Board has, however, made a slight amendment in the wording of paragraph (c)(3) to conform it to the amended paragraph (c)(1). The amended portion of paragraph (c)(3) provides as follows:

> The Board may close a meeting or a portion thereof and may withhold information concerning the meeting or portion thereof, including the explanation of closure, the description of the subject matter of the meeting, and the list of individuals expected to attend, which otherwise would be required to be made public under paragraph (d) and (e) of this section, where it has determined, as provided in paragraphs (1) and (2) of this subsection, that the public interest would not otherwise require that the meeting or portion thereof be open or that the information be made public, and that the meeting, or portion thereof, or the disclosure of the information is likely to:
> * * *

In its proposed regulations, the Board provided for adoption of the expedited closing procedure authorized by section 3(d)(4) of the Government in the Sunshine Act. The proposed paragraph (d)(6) of the Board's regulations provided as follows:

"The requirements for closing a meeting or portion of a meeting set forth in paragraphs (d)(1) through (5) of this section, as well as the requirements imposed by paragraph (e) of this section, shall not apply to a meeting or a portion thereof which could be properly closed under paragraphs (c)(3)(iv) and (ix) of this section. The Board may close a meeting or portion thereof which could be closed under paragraphs (c)(3)(iv) and (ix) of this section by a majority vote of the members at the beginning of the meeting or portion of a meeting. A copy of the vote showing the vote of each member shall, within one day following such vote, be made available in the office of the Secretary of the Board for public inspection and copying. Information, except to the extent exempt from disclosure under paragraph (c) of this section, as to the time, place, and subject matter of a meeting or portion thereof which could be properly closed under paragraphs (c)(3)(iv) and (ix) of this section, shall be publicly announced at the earliest practicable time."

A commenter expressed the opinion that the Board should reconsider its position with respect to adoption of the expedited closing procedure. In proposing paragraph (d)(6) the Board determined that under the definition of "agency business" expressed in paragraph (a)(2) of the proposed regulations, a majority of the Board's meetings pertained to matters which would permit adoption of the expedited closing procedure. However, having deleted the definition of "agency business" from its final regulations, the Board is not certain at this time whether a majority of its meetings will concern matters which would permit adoption of paragraph (d)(6). Accordingly that subsection has been deleted from the final regulations.

The final comment received by the Board pertained to paragraph (f)(1) of the regulations, which requires that the General Counsel of the Board certify the closing of meetings. The commenter stated that the language of paragraph (f)(1) was not clear as to when the certification would be made. To clarify the Board's intent in this regard, paragraph (f)(1) has been amended to expressly provide that the certification be made prior to the meeting or portion thereof which is to be closed.

The Railroad Retirement Board hereby adopted the proposed § 200.5 of Title 20 of the Code of Federal Regulations as published in the FEDERAL REGISTER on February 14, 1977, subject to the aforementioned amendments which the Board has determined to make in accordance with the comments it received on its proposed regulations, and several editorial corrections.

A new § 200.5 is added to Part 200 as follows:

§ 200.5 Open meetings.

(a) *Definitions*—(1) *Meeting.* For purposes of this section, the term "meeting" shall mean the deliberations of at least

two of the three members of the Railroad Retirement Board, which deliberations determine or result in the joint conduct or disposition of official agency business. Deliberations of the Board members concerning the closure of a meeting, the withholding of any information with respect to a meeting, the scheduling of a meeting, or the amendment of the agenda of a meeting shall not constitute a meeting for purposes of this section.

(2) *Public announcement.* For purposes of this section the term "public announcement" shall mean the posting of the notice of a scheduled meeting as required by this section on a bulletin board available to the public on the first floor of the Board's headquarters building located at 844 Rush Street, Chicago, Illinois 60611.

(b) The members of the Board shall not jointly conduct or dispose of agency business except in accordance with the procedures and requirements established by this section. Every portion of every meeting of the Board at which agency business is conducted or disposed of shall be open to public observation, except as provided in paragraph (c) of this section.

(c) (1) Except as provided in this subsection, every portion of every meeting of the Board shall be open to the public. A meeting or a portion of a meeting may be closed where (i) the Board properly determines that the subject matter of the meeting or portion thereof is such as to make it likely that disclosure of matters falling within one or more of the exceptions set out in paragraph (c) (3) of this section would result, and (ii) the Board determines that the public interest would not require that the meeting or portion thereof be open to the public.

(2) The requirements of paragraphs (d) and (e) of this section shall not apply to information pertaining to a meeting which would otherwise be required to be disclosed to the public under this section where the Board properly determines that the disclosure of the information is likely to disclose matters within the exceptions listed in paragraph (c) (3) of this section, and that the public interest would not require that the matters, even though excepted, should be disclosed.

(3) The Board may close a meeting or a portion thereof and may withhold information concerning the meeting or portion thereof, including the explanation of closure, the description of the subject matter of the meeting, and the list of individuals expected to attend, which otherwise would be required to be made public under paragraph (d) and (e) of this section, where it has determined, as provided in paragraphs (c) (1) and (2) of this section, that the public interest would not otherwise require that the meeting or portion thereof be open or that the information be made public, and that the meeting, or portion thereof, or the disclosure of the information is likely to:

(i) Disclose matters that are (A) specifically authorized under criteria established by Executive Order to be kept secret in the interests of national defense or foreign policy and (B) in fact properly classified pursuant to such Executive Order;

(ii) Relate solely to the internal personnel rules and practices of the Board;

(iii) Disclose matters exempted from disclosure under 45 U.S.C. 362(d) and 362(n) and 45 U.S.C. 231f(b) (3) or disclose matters specifically exempted from disclosure by any other statute (other than 5 U.S.C. 552), *Provided*, That such other statute either requires that the matters be withheld from the public in such a manner as to afford no discretion on the issue or establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(iv) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(v) Involve accusing any person of a crime, or formally censuring any person;

(vi) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(vii) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (A) interfere with law enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;

(viii) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed Board action, except that this paragraph shall not apply in any instance where the Board has already disclosed to the public the content or nature of its proposed action, or where the Board is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(ix) Specifically concern the agency's issuance of a subpoena, or the agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the authority granted in 45 U.S.C. 231f and 45 U.S.C. 365.

(d) (1) Any action by the Board to close a meeting or a portion thereof, or to withhold any information pertaining to such meeting or portion thereof, shall be taken only upon the vote of at least two members of the Board that the meeting or portion thereof be closed or information withheld for one or more of the reasons set forth in section (c) (3) of this section. A single vote may be taken with respect to a series of meetings, to close the meetings or portions thereof or to withhold information pertaining to such meetings, where the meetings or portions thereof involve the same subject matter and are scheduled within 30 calendar days after the date of the initial meeting in the series.

(2) The vote of each member of the Board participating in the vote on closure of a meeting or portion thereof shall be recorded. Vote by proxy shall not be allowed.

(3) A person whose interests might be directly affected by a meeting or portion thereof which otherwise would be open may request that the meeting or portion thereof which concerns such person's interests be closed under paragraphs (c) (3) (v), (vi), or (vii) of this section. The request should be directed to The Secretary, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, and must be received no later than the beginning of the meeting to which it applies. Upon receipt of such a request the Board shall vote by recorded vote on the question as to whether the meeting or portion thereof should be closed.

(4) Within one day following a vote taken under paragraphs (d) (2) and (3) of this section, a copy of such vote showing the vote of each member shall be available for public inspection and copying in the office of the Secretary of the Board, located in the Board's headquarters office.

(5) If a meeting or portion thereof is closed in accordance with an action under paragraphs (d) (2) or (3) of this section, the Board shall, within one day following the vote, except to the extent such information is exempt from disclosure under section (c) of this section, make available for inspection and copying in the office of the Secretary of the Board a written explanation of the Board's action and a list of the persons expected to attend and their affiliations.

(e) (1) Except as to those meetings or portions of meetings scheduled as provided in paragraphs (d) (2) and (3) of this section, the Board shall for each meeting make public announcement at least one week prior thereto of the time, place and subject matter of the meeting, whether the meeting is to be open or closed to the public, and the name and telephone number of an official of the Railroad Retirement Board designated by the Board to respond to any requests from the public pertaining to the meeting.

(2) The requirement contained in paragraph (e) (1) of this section that the Board give one week advance notice of each meeting shall not apply where the Board determines by majority vote, which vote shall be recorded, that agency business requires that a meeting be scheduled at an earlier date. If a meeting is scheduled less than one week in the future, as provided in this paragraph, the Board shall make a public announcement at the earliest practicable time of

the time, place and subject matter of the meeting and whether the meeting is to be open or closed to the public.

(3) The Board may change the time and place of a previously scheduled and announced meeting, but such change must be announced to the public at the earliest practicable time. The Board may change the subject matter, or its determination to open or close a meeting or portion thereof, of a previously scheduled and announced meeting only if (i) a majority of the Board determines by recorded vote that agency business requires the change and that no earlier public announcement of the change was possible, and (ii) the Board makes a public announcement of the change and the vote of each member thereon at the earliest practicable time.

(4) Immediately following each public announcement required by this subsection, the Board shall submit for publication in the FEDERAL REGISTER notice of the time, place, and subject matter of the meeting, whether the meeting is to be open or closed, any changes in such items from a previous announcement, and the name and telephone number of the Railroad Retirement Board official designated by the Board to respond to requests concerning the announced meeting.

(f) (1) Whenever the Board should determine to close a meeting or a portion of a meeting under any of the exemptions contained in paragraph (c) (3) of this section, the General Counsel of the Railroad Retirement Board shall, prior to the meeting, certify in writing that in his or her opinion the meeting or portion thereof may be closed to the public and shall state the applicable exemptions which permit closure. The Board shall maintain a copy of the General Counsel's certification and a copy of the statement of the presiding officer of the meeting setting forth the time and place of the meeting and a list of the persons present, other than those present merely as spectators.

(2) In the event that a meeting or any portion of a meeting is closed to the public, a complete transcript or recording shall be made of the meeting or portion thereof closed; *Provided, however,* That if the meeting or portion thereof is closed under paragraph (c) (3) (ix) of this section, a set of minutes may be made of the closed meeting or portion of a meeting in lieu of a complete transcript or recording thereof. If a set of minutes is the method chosen to record the proceedings of a meeting or portion thereof closed under paragraph (c) (3) (ix) of this section, such minutes shall fully and clearly describe the matters discussed. The minutes shall also fully reflect any actions taken by the Board, set forth a statement of the reasons for such actions, summarize each of the views expressed concerning such actions, identify any documents considered in connection with such agency actions, and show the vote of the Board and each of its members on such actions.

(3) The transcript, recording, or minutes of each meeting or portion thereof closed to the public shall be available for public inspection or listening in the office of the Secretary of the Board, 844 Rush Street, Chicago, Illinois 60611, no later than two weeks following the meeting. There shall be expunged or erased from the transcript, recording, or minutes of each meeting which is made available to the public any items of discussion or testimony when it has been determined that they contain information which may be withheld under paragraph (c) of this section, and that the public interest would not require disclosure. The determination as to what items of discussion or testimony shall be expunged or erased from the copies of the transcript, recording, or minutes available to the public shall be made by the Secretary of the Board with the approval of the Board.

(4) Copies of transcripts, minutes, or transcriptions of recordings maintained by the Board as provided in paragraph (e) (3) of this section shall be provided to members of the public who request such copies, at the actual cost of duplicating or transcription. Requests for copies of transcripts, minutes, or transcriptions of recordings should be in writing, addressed to the Secretary of the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, and should clearly indicate the date of the meeting or meetings for which such copies are requested. If the requester desires a copy of only a portion or portions of the transcript, minutes, or transcription of a specified meeting, the request should specify which portion or portions are desired.

(5) The Board shall maintain the complete transcript, recording, or minutes required to be made under paragraph (e) (2) of this section for a period of at least two years after the meeting, or for at least one year after the conclusion of any agency proceeding with respect to which the meeting or portion of the meeting was held, whichever occurs later.

(g) Nothing in this section shall expand or limit the rights of any person under 5 U.S.C. 552, and 20 CFR 200.3, except that the exemptions contained in paragraph (c) of this section shall govern in the case of any request under 5 U.S.C. 552 and 20 CFR 200.3 to copy, inspect, or obtain copies of transcripts, recordings, or minutes described in paragraph (f) of this section. Nothing in this section shall limit the rights of any individual under 5 U.S.C. 552a and 20 CFR 200.4 to gain access to any record which would be available to such individual under those provisions.

(5 U.S.C. 552b.)

Effective date: March 12, 1977.

By Authority of the Board.

Dated: March 9, 1977.

R. F. BUTLER,
Secretary of the Board.

[FR Doc.77-8338 Filed 3-18-77;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 699-77]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Assigning Functions to the Associate Attorney General

AGENCY: Department of Justice.

ACTION: Final Rule.

SUMMARY: This order formally establishes the Office of the Associate Attorney General in the Department of Justice. The order assigns to the Associate Attorney General certain functions, including the preparation of recommendations for judicial appointments and certain personnel matters, previously assigned to the Deputy Attorney General. The function of providing general supervision over various organizational units of the Department will be shared by the Deputy Attorney General and the Associate Attorney General. Most criminal Law matters and investigative matters will continue to be under the general direction of the Deputy Attorney General. Most civil matters and matters relating to the internal administration of the Department will be under the general direction of the Associate Attorney General.

EFFECTIVE DATE: March 10, 1977.

FOR FURTHER INFORMATION CONTACT:

John M. Harmon, Office of Legal Counsel, Department of Justice, Washington, D.C. 20530. (202-739-2041).

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, Chapter I of Title 28, Code of Federal Regulations, is amended as follows:

§ 0.1 [Amended]

1. Section 0.1 of Subpart A of Part 0 is amended by inserting "Office of the Associate Attorney General" and "Office for Improvements in the Administration of Justice" immediately after "Office of Legislative Affairs" and by deleting "Office of Policy and Planning" in the list of Offices of the Department.

2. Subpart B of Part 0 is amended by adding a new § 0.8, to read as follows:

§ 0.8 Associate Attorney General.

The Associate Attorney General, established in the Office of the Attorney General, shall advise and assist the Attorney General in formulating and implementing Department policies and programs, shall provide overall supervision and direction of certain organizational units of the Department, as provided in this Chapter, and shall:

(a) Prepare, for the consideration of the Attorney General, recommendations for Presidential appointments to judicial positions and positions within the Department, including United States Attorneys and United States Marshals.

(b) Exercise the power and authority vested in the Attorney General and in the Law Enforcement Assistance Administration to take final action in matters pertaining to:

(1) The employment, separation, and general administration of personnel in General Schedule grades GS–16 through GS–18, or the equivalent, and of attorneys regardless of grade or pay in the Department; and

(2) The appointment of Assistant U.S. Attorneys and other attorneys to assist U.S. Attorneys when the public interest so requires, and fixing their salaries.

(c) Administer the Attorney General's recruitment program for Honor Law Graduates and judicial law clerks.

(d) Review any personnel action taken by any officer of the Department.

(e) Coordinate Departmental liaison with the White House staff and the Executive Office of the President.

(f) Perform such other duties as may be especially assigned from time to time by the Attorney General.

3. Paragraph (c) of § 0.15 of Subpart C is revoked and paragraph (b) is revised to read as follows:

§ 0.15 Deputy Attorney General.

* * * * *

(b) The Deputy Attorney General shall act as Attorney General and perform all the duties of the Office of the Attorney General in case of a vacancy in that office or in case of the absence or disability of the Attorney General and shall:

(1) Assist the Attorney General in formulating and implementing Department policies and programs and in providing overall supervision and direction of certain organizational units of the Department, as provided in this Chapter.

(2) Coordinate the Department's response to requests for production or disclosure of information under 5 U.S.C. 552(a). See Part 16(A) of this Chapter.

(3) Establish and direct the implementation of policy relating to the participation of the United States in the International Criminal Police Organization (22 U.S.C. 263(a)).

(4) Coordinate and control the Department's reaction to civil disturbances.

(5) Perform such other duties and functions as may be especially assigned from time to time by the Attorney General.

§§ 0.20, 0.25 and 0.27 [Amended]

4. Sections 0.20(e), 0.25(m) and 0.27 (d) are amended by inserting ", the Associate Attorney General," immediately after "the Attorney General."

5. In the following sections, "Associate Attorney General" is substituted for "Deputy Attorney General" each place it appears: §§ 0.30, 0.40, 0.41, 0.45, 0.50, 0.65, 0.70, 0.75, 0.76, 0.77, 0.105, 0.115, 0.116, 0.160 through 0.168, 0.190, 42.102, 42.412, 45.735–3(b), 45.735–5(a)(2), 45.735–9(c), 45.735–12, 45.735–22(g), and 45.735–24.

6. Section 0.85 of Subpart P of Part O is revised to read as follows:

§ 0.85 General functions.

Subject to the general supervision of the Attorney General and under the direction of the Deputy Attorney General, the Director of the Federal Bureau of Investigation shall:

* * * * *

§ 0.171 [Amended]

7. Section 0.171 of Subpart Y is amended by inserting "or the Associate Attorney General" immediately after "the Deputy Attorney General."

Dated: March 10, 1977.

GRIFFIN B. BELL,
Attorney General.

[FR Doc.77-8336 Filed 3-18-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 699-6]

PART 205—TRANSPORTATION EQUIPMENT NOISE EMISSION CONTROLS

Medium and Heavy Trucks: Extension of Comment Period

On March 1, 1977, the Environmental Protection Agency published an amendment to the test method under 40 CFR Part 205 which deletes 40 CFR § 205.54–1(c)(1)(iv) and 205.54–1(c)(2)(iv) (42 FR 11835), effective May 31, 1977. This amendment was published in final form without prior proposal because the Administrator finds it impractical to carry out a full formal rulemaking, which would delay final amendment until beyond the date when testing would have to begin to assure compliance with the standards. Moreover, since the Administrator found that the deleted provisions were unnecessary, the amendment has little substantive effect.

The administrator did ask the public to comment on the amendment, however, and intended to allow 45 days for submittal of comments. The notice of March 1 incorrectly allowed only 14 days. Accordingly, the closing date for comments is extended to April 20, 1977.

Dated: March 10, 1977.

EDWARD F. TUERK,
Acting Assistant Administrator for Air and Waste Management.

[FR Doc.77-7978 Filed 3-18-77;8:45 am]

[PP6F1829/R123; FRL 700-6]

SUBCHAPTER E—PESTICIDE PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Aldicarb

On September 1, 1976, notice was given (41 FR 36834) that Union Carbide Corp., 1730 Pennsylvania Ave., NW, Washington DC 20006 had filed a pesticide petition (PP6F1829) with the Environmental Protection Agency (EPA). This petition proposed that 40 CFR 180.269 be amended to establish a tolerance for combined residues of the insecticide and nematocide aldicarb (2-methyl-2-(methylthio)-propionaldehyde O-(methylcarbamoyl) oxime) and its cholinesterase-inhibiting metabolites 2-methyl-2-(methylsulfinyl) propionaldehyde O-(methylcarbamoyl) oxime and 2-methyl-2-(methylsulfonyl) propionaldehyde O-(methylcarbamoyl) oxime in or on the raw agricultural commodity oranges at 0.3 part per million (ppm). (A related document concerning the establishment of a food additive regulation containing a tolerance limitation for residues of aldicarb in dried citrus pulp at 0.6 ppm appears elsewhere in today's FEDERAL REGISTER.) No comments or requests for referral to an advisory committee were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated, and the pesticide is considered to be useful for the purpose for which the tolerance is sought. The existing meat and milk tolerances are adequate to cover any residues resulting from the proposed use as delineated in 40 CFR 180.6(a)(2), and there is no reasonable expectation of residues in eggs and poultry as delineated in 40 CFR 180.6(a)(3). It has been determined that this tolerance will protect the public health. In addition, the negligible residue designator ("N") has been removed from the existing tolerances because long-term feeding studies are now available. It is concluded, therefore, that the tolerance be established as set forth below.

Any person adversely affected by this regulation may, on or before April 20, 1977, file written objections with the Hearing Clerk, Environmental Protection Agency, East Tower, Rm. 1019, 401 M St. SW, Washington DC 20460. Such objections should be submitted in quintuplicate and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on March 21, 1977, Part 180 is amended as set forth below.

Dated: March 11, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

(Sec. 408(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)).)

40 CFR Part 180, Subpart C, § 180.269 is amended by revising the section in its entirety to (1) delete the words "negligible residues," (2) editorially restructure the section into an alphabetized columnar listing, (3) alphabetically insert a tolerance of 0.3 ppm in or on the raw agricultural commodity oranges, as follows:

§ 180.269 Aldicarb; tolerances for residues.

Tolerances are established for combined residues of the insecticide and nematocide aldicarb (2-methyl-2-

(methylthio) propionaldehyde *O*-(methylcarbamoyl) oxime) and its cholinesterase-inhibiting metabolites 2-methyl- 2 -(methylsulfinyl) proprionaldehyde *O* - (methylcarbamoyl) oxime and 2 - methyl - 2 - (methylsulfonyl) propionaldehyde *O*-(methylcarbamoyl) -oxime in or on the following raw agricultural commodities:

Commodity:	*Parts per million*
Beets, sugar	0.05
Beets, sugar, tops	1
Cattle, fat	0.01
Cattle, meat byproduct	0.01
Cattle, meat	0.01
Cottonseed	0.1
Goats, fat	0.01
Goats, meat byproduct	0.01
Goats, meat	0.01
Hogs, fat	0.01
Hogs, meat byproduct	0.01
Hogs, meat	0.01
Horses, fat	0.01
Horses, meat byproduct	0.01
Horses, meat	0.01
Milk	0.002
Oranges	0.3
Peanuts	0.05
Peanuts, hulls	0.5
Potatoes	1
Sheep, fat	0.01
Sheep, meat byproduct	0.01
Sheep, meat	0.01
Sugarcane	0.02
Sugarcane, fodder	0.1
Sugarcane, forage	0.1
Sweet potatoes	0.02

[FR Doc.77-8261 Filed 3-18-77;8:45 am]

proposed rules

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[7 CFR Part 1804]

[FmHA Instruction 424.1]

PLANNING AND PERFORMING DEVELOPMENT WORK

Proposed Assistance Eligibility Requirement

Notice is hereby given that the Farmers Home Administration has under consideration the amendment of § 1804.3(d) (1) and the addition of Appendix D to Subpart A, Part 1804, Chapter XVIII, Title 7, Code of Federal Regulations (36 FR 18062). The proposed change will establish thermal performance standards for new dwellings to be constructed with Rural Housing (RH) loan funds and for existing dwellings to be purchased with RH funds. These standards would replace applicable portions of the Minimum Property Standards (MPS) for use by the Farmers Home Administration.

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed amendment to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250, on or before April 20, 1977. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Chief, Directives Management Branch, during regular business hours (8:15 a.m.–4:45 p.m.).

1. As proposed, § 1804.3(d) (1) reads as follows:

§ 1804.3 Planning development.

* * * * *

(d) *Construction.* (1) All new buildings to be constructed and all alterations and repairs to buildings will be planned to conform with good construction practices. All improvements to the property will conform to applicable laws, ordinances, codes, regulations which relate to safety and the sanitation of buildings and Appendix D of this subpart, which supersedes the applicable MPS as related to thermal performance standards.

* * * * *

2. As proposed, Appendix D to Subpart A of Part 1804 reads as follows:

APPENDIX D—CONSTRUCTION STANDARDS

1. *Purpose.* This Appendix prescribes construction standards to be used in all Rural Housing (RH) loan programs. These requirements shall supersede those listed in the Minimum Property Standards (MPS) No. 4900.1, "One and Two Family Dwellings," and 4910.1, "Multifamily Housing," as applicable.

2. *Policy.* All loans for new construction approved or conditional commitments issued after the date of issuance of this Appendix shall have drawings and specifications prepared to comply with paragraph 3 a of this Appendix. All existing dwellings to be bought with RH loan funds shall comply with paragraph 3 b of this Appendix.

3. *Minimum Requirements.* a. All dwellings, single family or multifamily to be constructed with RH loan funds shall comply with the following:

New Construction—maximum U values for ceiling, wall and floor sections of various construction

Winter degree-days [1]	Ceilings	Walls	Floors [2]	Glazing	Slab edge	Doors [3]
2,500 or less	0.033	0.077	0.09	1.13		
2,501 to 4,500	.033	.05	.077	.65	0.50	Storm door if over 25 pct glass.
4,501 to 6,000	.033	.05	.05	.65	.13	Storm door.
6,001 to 8,000	.029	.05	.045	.65	.13	Do.
8,001 or more	.029	.05	.045	.47	.10	Do.

[1] Winter degree-days may be obtained from the ASHRAE Guide, the "NAHB Insulation Manual for Homes Apartments," local utilities, and National Climatic Center, Federal Bldg., Asheville, N.C. Manuals are available from NAHB RF, Rockville, Md. 20850, or NMWIA, 211 East 51st St., New York, N.Y. 10022. Other sources of degree-day data may be used if available from a recognized authority.

[2] Where the walls of an unheated basement or crawl space are insulated in lieu of floor insulation, the total heat loss through the walls shall not exceed the heat loss calculated for floors with required insulation.

[3] 1¾-inch metal faced doors with rigid insulation core and magnetic weatherstripping may be substituted for a conventional door and storm door. All doors shall be weatherstripped.

b. All existing dwellings to be purchased with RH loan funds shall be insulated in accordance with the following:

Existing construction—maximum U values for ceiling, wall and floor sections of various construction

Winter degree-days [1]	Ceilings	Walls [2]	Floors [3]	Glazing	Slab edge [4]	Doors [5]
2,500 or less	0.033	.....	0.09	1.13	.....	
2,501 to 4,500	.033	.....	.077	.65	.....	Storm door if over 25 pct glass.
4,501 to 6,000	.033	.....	.05	.65	.....	Storm door.
6,001 to 8,000	.029	.....	.045	.65	.....	Do.
8,001 or more	.029	.....	.045	.65	.....	Do.

[1] Winter degree-days may be obtained from the ASHRAE Guide, the "NAHB Insulation Manual for Homes Apartments," local utilities, and National Climatic Center, Federal Bldg., Asheville, N.C. Manuals are available from NAHB RF, Rockville, Md. 20850 or NMWIA, 211 East 51st St., New York, N.Y. 10022. Other sources of degree-day data may be used if available from a recognized authority.

[2] Walls shall be insulated as near to new construction standards as economically feasible. Any exterior wall framing exposed during repair or rehabilitation work shall have vapor barrier installed and be fully insulated.

[3] Where the walls of an unheated basement or crawl space are insulated in lieu of floor insulation, the total heat loss through the walls shall not exceed the heat loss calculated for floors with required insulation.

[4] Slab-edge insulation should be provided wherever practical in areas of 2,500 or more winter degree-days. Rigid insulation placed on the exterior face of the slab shall be protected by a durable and weather-resistant material.

[5] Storm doors not required for double doors, sliding doors or others where installation would be economically infeasible. 1¾-inch metal-faced doors with rigid insulation core and magnetic weatherstripping may be substituted for a conventional door and storm door. All doors shall be weatherstripped.

(7 U.S.C. 1989; 42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

Dated: March 16, 1977.

F. W. NAYLOR, Jr.,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77-8323 Filed 3-18-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 213]

OIL IMPORT REGULATION

Allocations for the Period Beginning May 1, 1977; Proposed Rulemaking and Request for Public Comments

Under the Mandatory Oil Import Program established pursuant to Proclamation No. 3279, as amended, the next allocation period for imports not subject to license fees under Section 3(a) (1) (i)–(ii) of the Proclamation will commence on May 1, 1977. Section 8 of the Proclamation provides that for this allocation period, the maximum levels of imports subject to allocation and license, to which license fees under section 3(a) (1) (i)–(ii) shall not be applicable, shall be reduced to fifty percent (50%) of the levels established during the calendar year 1973. In accordance with Proclama-

tion No. 3279, as amended, the Federal Energy Administration (FEA) hereby issues proposed amendments to Part 213 of Chapter II, Title 10 of the Code of Federal Regulations, to provide for the commencement of the next allocation period, and to reduce accordingly the levels of fee-exempt allocations.

Virtually no substantive changes are proposed with respect to regulations governing the current allocation period apart from those required to be made by the Proclamation for the purpose of reducing the levels of fee-exempt allocations. However, FEA is proposing to amend § 213.5 to permit applications for allocations based on new, expanded or reactivated refinery or petrochemical plant capacity to be filed at any time, notwithstanding the filing dates generally applicable. Since these allocations are not included in the maximum fee-exempt levels provided in Section 2 of the Proclamation, there is no need for applications therefor to be submitted concurrently with the general applications. It should be noted that reductions in fee-exempt allocations are mandatory under the Proclamation as currently in effect, and these amendments should not be construed as affecting FEA's ongoing consideration of possible recommendations to the President with respect to changes to the Proclamation. (See 41 FR 30058, July 21, 1976).

Interested persons are invited to submit written data, views, or arguments with respect to these amendments to Executive Communications, Room 3309, Federal Energy Administration, Box KX, the Federal Building, Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on the documents submitted to the Federal Energy Administration with the designation "Allocations for the Period Beginning May 1, 1977." Fifteen (15) copies should be submitted. All comments received by 4:30 p.m., e.s.t., April 5, 1977, will be considered by the Federal Energy Administration in evaluating the amendments.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Public hearings with respect to these amendments, will be held at 9:30 a.m., e.s.t., on April 4, 1977, in Room 2105, 2000 M Street, NW., Washington, D.C. Any person who has an interest in these changes, or who is representative of a group or class of persons which has such an interest, may make a written request for an opportunity to make oral presentation. Such a request should be directed to Executive Communications, FEA, and must be received before 4:30 p.m., e.s.t., March 24, 1977. Such a request may be hand delivered to Room 3309, the Federal Building, 12th Street and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he is a proper representative of a group or class of persons which has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he may be contacted through March 28, 1977. Each person selected to be heard will be so notified by the FEA before 4:30 p.m., e.s.t., March 28, 1977, and must submit 100 copies of his statements to the Office of Regulatory Programs, Room 2214, 2000 M Street, NW., Washington, D.C. 20461, before 4:30 p.m., e.s.t., April 1, 1977.

The FEA reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearings. These will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings; and there will be no cross-examination of persons presenting statements. Any decision made by the FEA with respect to the subject matter of the hearings will be based on all information available to the FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested persons may submit questions, to be asked of any person making a statement at the hearings to Executive Communications, FEA, before 4:30 p.m., e.s.t., March 31, 1977. Any person who makes an oral statement and who wishes to ask a question at the hearings may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearings, will determine whether the question is relevant and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

A transcript of the hearings will be made and the entire record of the hearings, including the transcript, will be retained by the FEA and made available for inspection in the FEA Freedom of Information Office, Room 2107, Federal Building, 12th Street and Pennsylvania Avenue, NW., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In accordance with section 7(c)(2) of the Federal Energy Administration Act, which requires that proposed regulations having an effect on the environment be submitted to the Administrator of the Environmental Protection Agency for his views, these regulations have been appropriately reviewed. The Administrator has advised FEA that he has no comment.

Finally, this proposal has been reviewed in accordance with Executive Order 11821 and OMB Circular No. A-107 and has been determined not to require evaluation of its inflationary impact as provided therein.

(Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790, 39 FR 23185; Trade Expansion Act of 1962, Pub. L. 87-794, as amended; Proclamation No. 3279, as amended.)

In consideration of the foregoing, it is proposed that Part 213 of Chapter II, Title 10 of the Code of Federal Regulations be amended as set forth below.

Issued in Washington, D.C., March 15, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

1. Section 213.5 is amended to read as follows:

§ 213.5 Applications for allocations and licenses.

(a) Except as provided in paragraph (b), applications for all allocations of imports of crude oil, unfinished oils, and finished products not subject to license fee, for the allocation period May 1, 1977 through April 30, 1978, shall be filed with the Director in such form as he may prescribe, not later than April 1, 1977.

(b) Applications pursuant to § 213.10 shall be filed as provided in paragraph (c) therein. Applications pursuant to § 213.28 and § 213.30 may be filed at any time.

§ 213.9 [Amended]

2. Section 213.9 is amended in paragraphs (a) and (b) by deleting the terms "1975," "1976," and "1977" wherever they appear and substituting therefor the terms "1976," "1977," and "1978" respectively, and by deleting the term ".65" wherever it appears and substituting therefor the term ".50."

§ 213.12 [Amended]

3. Section 213.12 is amended in paragraphs (a) and (b) by deleting the terms "1975," "1976," and "1977" wherever they appear and substituting therefor the terms "1976," "1977" and "1978" respectively.

§ 213.13 [Amended]

4. Section 213.13 is amended by deleting the terms "1975," "1976," and "1977" wherever they appear and substituting therefor the terms "1976," "1977," and "1978" respectively.

5. Section 213.15 is amended in paragraph (d) to read as follows:

§ 213.15 Allocations of residual fuel oil—District I.

* * * * * *

(d) For the allocation period May 1, 1977 through April 30, 1978, each eligible applicant under this section shall receive an allocation not subject to license fee of imports of residual fuel oil into Dis-

trict I to be used as fuel in District I computed according to the following formula:

$$\left[\frac{\text{Applicant's average barrels per day allocation made pursuant to sec. 213.15 for the allocation period May 1, 1974, through Apr. 30, 1975.}}{\text{Average barrels per day allocations made pursuant to sec. 213.15 to all applicants for the allocation period May 1, 1974, to Apr. 30, 1975.}}\right] \times 1{,}450{,}000$$

* * * * *

§ 213.16 [Amended]

6. Section 213.16 is amended in paragraph (a) by deleting the terms "1976" and "1977" and substituting therefor the terms "1977" and "1978" respectively, and by deleting the term "13,000" and substituting therefor the term "10,000."

7. Section 213.20 is amended in subparagraph (2) of paragraph (a) to read as follows:

§ 213.20 Allocations of Crude Oil and Unfinished Oils—Puerto Rico.

(a) * * *

(2) For the allocation period May 1, 1977 through April 30, 1978, each eligible applicant under this paragraph shall receive an allocation not subject to license fee to import crude and unfinished oils into Puerto Rico computed according to the following formula:

$$\left[\frac{\text{Applicant's allocation pursuant to sec. 213.20(a) not subject to license fees of imports of crude and unfinished oils into Puerto Rico for the allocation period May 1, 1974, to Apr. 30, 1975, expressed in barrels per day.}}{\text{Total allocations pursuant to sec. 213.20(a) not subject to license fees of imports of crude and unfinished oils into Puerto Rico for the allocation period May 1, 1974 to Apr. 30, 1975, expressed in barrels per day.}}\right] \times 113{,}611$$

* * * * *

8. Section 213.21 is amended in paragraph (a) (2), and in paragraph (b) (2) to read as follows:

§ 213.21 Allocation of finished products—Puerto Rico.

(a) * * *

(2) For the allocation period May 1, 1977 through April 30, 1978, each eligible applicant under this paragraph shall receive an allocation not subject to license fee to import finished products, other than residual fuel oil to be used as fuel in Puerto Rico, computed according to the following formula:

$$\left[\frac{\text{Applicant's allocation pursuant to sec. 213.21(a) not subject to license fees of imports into Puerto Rico of finished products (other than residual fuel oil to be used as fuel in Puerto Rico) for the allocation period May 1, 1974, to Apr. 30, 1975, expressed in barrels per day.}}{\text{Total allocations pursuant to sec. 213.21(a) not subject to license fees of imports into Puerto Rico of finished products (other than residual fuel oil to be used as fuel in Puerto Rico) for the allocation period May 1, 1974, to Apr. 30, 1975, expressed in barrels per day.}}\right] \times 719 \text{ bbl/d}$$

(b) * * *

(2) For the allocation period May 1, 1977 through April 30, 1978 each eligible applicant under this paragraph shall receive an allocation not subject to license fee to import residual fuel oil to be used as fuel in Puerto Rico, computed according to the following formula:

$$\left[\frac{\text{Applicant's allocation pursuant to sec. 213.21(b) not subject to license fees of imports into Puerto Rico of residual fuel oil to be used as fuel in Puerto Rico for the allocation period May 1, 1974, to Apr. 30, 1975, expressed in barrels per day.}}{\text{Total allocations pursuant to sec. 213.21(b) not subject to license fees of imports into Puerto Rico of residual fuel oil to be used as fuel in Puerto Rico for the allocation period May 1, 1974, to Apr. 30, 1975, expressed in barrels per day.}}\right] \times 825 \text{ bbl/d}$$

* * * * *

9. Section 213.32 is amended in paragraph (d) to read as follows:

§ 213.32 Allocation of low sulphur residual fuel oil—District V.

* * * * *

(d) For the allocation period May 1, 1977 through April 30, 1978 each eligible applicant under this section shall receive an allocation not subject to license fee to import low sulphur residual fuel oil into District V to be used as fuel in District V computed according to the following formula:

$$\left[\frac{\text{Applicant's average barrels per day allocation made pursuant to sec. 213.32 for the allocation period May 1, 1974, through Apr. 30, 1975.}}{\text{Average barrels per day allocations made pursuant to sec. 213.32 to all applicants for the allocation period May 1, 1974, through Apr. 30, 1975.}}\right] \times 37{,}800$$

* * * * *

10. Section 213.34 is amended in paragraph (b) and (e) to read as follows:

§ 213.34 Allocations of No. 2 Fuel Oil—District I.

* * * * *

(b) For the allocation period May 1, 1977 through April 30, 1978, 25,000 barrels per day of imports of No. 2 fuel oil, which is manufactured in the Western Hemisphere from crude oil produced in the Western Hemisphere, will be available for allocations in District I to eligible persons having qualified terminal inputs of No. 2 fuel oil in this district.

* * * * *

(e) For the allocation period May 1, 1977 through April 30, 1978, each eligible applicant under this section shall receive an allocation of imports not subject to license fee into District I of No. 2 fuel oil according to the following formula:

$$\left[\frac{\text{Applicant's average barrels per day allocation of No. 2 fuel oil into District I made pursuant to Sec. 213.34 or a grant from the Oil Import Appeals Board for the allocation period Jan. 1, 1973, through Dec. 31, 1973.}}{\text{Total of all allocations expressed in barrels per day of No. 2 fuel into district I made pursuant to Sec. 213.34 or a grant from the Oil Import Appeals Board for the allocation period Jan. 1, 1973, through Dec. 31, 1973.}}\right] \times 25{,}000 \text{ bbl/d}$$

§ 213.37 [Amended]

* * * * *

11. Section 213.37 is amended in paragraph (a) by deleting the term "21,125" and substituting therefor the term "16,250," and in paragraphs (a) and (c) by deleting the terms "1976" and "1977" wherever they appear and substituting therefor the terms "1977" and "1978" respectively.

[FR Doc.77-8230 Filed 3-16-77;10:44 am]

[10 CFR Parts 303, 305, 307, 309]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT OF 1974

Implementation of Regulations

The Federal Energy Administration ("FEA") hereby gives notice of a proposal to amend Chapter II, Subchapter B of Title 10 of the Code of Federal Regulations by the amendment of Parts 303, 305, 307, and 309, and notice of the solicitation of comments from interested persons.

I. INTRODUCTION

The amendments to the coal utilization regulations proposed by FEA will, if promulgated, implement the modification of section 2 of the Energy Supply and Environmental Coordination Act of 1974 ("ESECA") (15 U.S.C. 791 et seq.) effected by section 101 of the Energy Policy and Conservation Act ("EPCA") (Pub. L. 94-163).

Prior to its amendment, ESECA authorized FEA to issue orders (i) prohibiting certain powerplants and major fuel burning installations from burning petroleum products or natural gas as their primary energy source ("prohibition orders"), (ii) requiring powerplants is the early planning process to be designed and constructed to be capable of using coal as their primary energy source ("construction orders"), and (iii) allocating coal to powerplants or major fuel burning installations that had been issued prohibition orders and to such other persons as is consistent with the purposes of the Act ("supply orders"). (Regulations implementing FEA's prohibition and construction order authority were promulgated on May 5, 1975 (40 FR 20462, May 9, 1975); regulations implementing the supply order authority were promulgated on June 30, 1975 (40 FR 28420, July 3, 1975).) On June 30, 1975, FEA issued prohibition orders to 74 powerplants at 32 generating stations, which are owned by 25 electric power utilities, and issued construction orders to 74 powerplants at 42 generating stations, which are owned by 40 electric power utilities.

Under ESECA before its amendment by EPCA, however, FEA's authority to issue orders or rules expired on June 30, 1975, and its authority to enforce, amend, repeal, modify or rescind such rules or orders was scheduled to expire on December 31, 1978. Section 101 of EPCA amended ESECA by extending the duration of FEA's order and rule-issuing authority to June 30, 1977, and by extending its authority to enforce, amend, repeal, modify or rescind such rules and orders until Decemmber 31, 1984. In addition, the substantive authority granted to FEA by section 2 of ESECA was expanded: (i) Prohibition orders now can be issued to powerplants and to major fuel burning installations that have been issued construction orders, or to those facilities that after June 22, 1974 acquired or are designed with the capability and necessary plant equipment to burn coal; previously the orders only could be issued to powerplants or installations that possessed the capability and necessary plant equipment to burn coal on June 22, 1974; and (ii) construction orders now can be issued to major fuel burning installations in the early planning process.

Many of the amendments proposed by FEA merely change dates in the regulations to incorporate the extension of FEA's authority to June 30, 1977 or December 31, 1984, as appropriate, or provide for the inclusion of major fuel burning installations in the sections pertaining to construction orders. A considerable number of the proposed amendments result from editorial corrections and a decision to include references to appropriate sections of the United States Code along with citations to Acts of Congress. In addition to these proposed changes, a number of proposed deletions from the regulations result from lapse of the Environmental Protection Agency's ("EPA") temporary suspension authority under section 119(b) of the Clean Air Act (42 U.S.C. 1857c-10(b)).

Section 119(b), which was added to the Clean Air Act by section 3 of ESECA, authorized the Administrator of EPA to temporarily suspend until June 30, 1975 the applicability of any stationary source fuel or emission limitation to sources, inter alia, that had been issued prohibition orders, if the source could comply with certain interim requirements. This authority necessitated provisions in FEA's regulations to distinguish between the FEA and EPA procedures applicable to prohibition orders effective before June 30, 1975 and to those effective after that date. The proposed deletion of the language in the regulations concerning prohibition orders effective before June 30, 1975, which potentially were eligible for a temporary suspension, would result in a substantial revision of some sections of the regulations.

In the following discussion, the proposed substantive amendments to each Part of FEA's coal utilization regulations will be separately addressed. (The proposed amendments to Part 309—Coal Allocation are either changes in dates to incorporate EPCA's grant of additional authority or technical corrections, and will not be separately discussed.)

II. PART 303—ADMINISTRATIVE PROCEDURES AND SANCTIONS

A. SUBPART A—GENERAL PROVISIONS

Definitions (§ *303.2*). As a result of ESECA's amendment by EPCA, the definition of "preliminary feasibility study" must be added and several existing definitions must be modified. Statutory citations will be added in several definitions and in some instances definitions will be modified to reflect technical or editorial corrections. The definition of "ultimate coal consumer" which is currently found only in Part 309, will be added to Part 303, the definition of "temporary suspension" will be deleted as a result of the lapse of EPA's authority mentioned above, a definition for "dispatching system", a component of FEA's reliability finding for powerplants, will be added, and, as a result of FEA's modification of "primary energy source," a definition for "process fuel use" will be added. (The discussion of the proposed changes to the definitions in Part 303 is applicable to the definitions of the same terms in the other Parts.)

"Early planning process:" Because FEA now is authorized to issue construction orders to major fuel burning installations in the early planning process, the existing definition must be expanded to describe the beginning and end events in the early planning process for such installations. The FEA proposes that the commencement of the early planning process for major fuel burning installations be when the first decision is made to proceed with the design and construction of the facility. The proposed termination point of the early planning process is that time when the major fuel burning installation would suffer a significant financial or operational detriment if the facility were then required to comply with a construction order. FEA believes this termination point will typically be reached when the major fuel burning installation completes construction of the planned combustor's foundation, thereby indicating that a significant amount of time and money already have been expended in designing and constructing the facility. However, in those peculiar situations when completion of construction of the foundation or completion of modifications to existing foundations does not indicate the commitment of significant amounts of time or money, the early planning process will not terminate at the foundation construction stage. Also the definition of one of the component parts of the expanded early planning process definition, the preliminary feasibility study, must be added to Parts 303 and 307. The rationale for these proposed actions are discussed in section IV.

"Primary energy source:" The FEA has determined that the definition of primary energy source should be amended to provide an additional exception for process fuel use. This exception is intended to extend only to that process fuel use for which there is no other technically usable fuel or fuel substitute.

Subpoenas; Witness Fees (*§303.8(h)*). It is proposed that paragraph (h)(3) be added to allow for the grant of a stay by FEA while an application to quash or modify a subpoena issued by FEA is being reviewed pursuant to paragraphs (h)(1) and (h)(2) of § 303.8.

In addition to the proposed changes described above, § 303.9 would be revised to clarify that all recipients of prohibition orders or construction orders are under a continuing obligation to provide the FEA with relevant, new information, and that the general confidentiality provisions of § 303.9(f) do not apply where FEA forms contain their own instructions as to requests for confidential treatment of information provided on those forms. Section 303.12 would be revised to describe FEA's current facsimile transmission facilities and to add new FAX and TWX numbers, and § 303.13 would be amended to identify the docu-

ments publicly available in the Exceptions and Appeals Docket Room and those publicly available in the Freedom of Information Reading Room to reflect the present distribution of such documents.

B. SUBPART B—PROHIBITION ORDERS

General. The authorization in EPCA for issuance of prohibition orders to powerplants and major fuel burning installations that acquired or were designed with coal burning capability and necessary plant equipment after June 22, 1974 and to those that received construction orders requires changes to the description of the information to be supplied by applicants for prohibition orders. Therefore, the proposed amendments would modify § 303.35(a) to permit applications from powerplants and major fuel burning installations that either acquired or designed their coal-burning plant equipment and facilities after June 22, 1974 or were issued construction orders.

Decision and order (§ 303.37). Paragraph (c) of this section will be revised to make clear that compliance schedules are not part of the prohibition order or notice of effectiveness but rather are distinct implementing components of FEA's enforcement authority under ESECA and the FEA Act which may be enclosed with the prohibition order or notice of effectiveness.

C. SUBPART C—CONSTRUCTION ORDERS

Other than a number of proposed amendments that would enable major fuel burning installations to apply for a construction order, the significant changes proposed to Subpart C are in § 303.45 and § 303.47.

Contents (§ 303.45). In most respects the proposed contents of an application for a construction order by a major fuel burning installation will be identical to the presently required contents of a similar application by a powerplant. Paragraph (a)(7) will continue to be required on such applications even though as explained in Part 307 the FEA proposes to no longer consider loss of revenue as a separate component of FEA's analysis preceding issuance of a construction order. The information provided in item (a)(7) will be incorporated with the information in item (a)(6) when the FEA considers the capability of the combustor's owner to recover all extra costs associated with receipt of the construction order, capitalized over the expected life of the combustor.

Decision and order (§ 303.47). For the same reasons mentioned in the discussion of compliance schedules enclosed with prohibition orders or related notices of effectiveness, paragraph (c) is revised to make clear that any reporting schedule imposed on the recipient of a construction order is an implementing component of FEA's enforcement authority under ESECA and the FEA Act and not a part of the construction order or the notice of effectiveness. Notice of such reporting schedule, however, may be enclosed with the construction order or notice of effectiveness.

D. SUBPART I—STAY

Section 303.120(b) and § 303.122(c) will be revised to provide the procedures for the application and granting of a stay incident to an application to modify or quash a subpoena issued by FEA pursuant to § 303.8.

E. SUBPARTS J&K—MODIFICATION OR RESCISSION OF ORDERS AND INTERPRETATIONS.

Sections 303.136 and 303.145 each would be amended to add a paragraph (c). The purpose of each paragraph (c) is to make it clear that FEA does not have to determine that there are significantly changed circumstances before it can commence a proceeding for modification or rescission on its initiative.

III. PART 305—COAL UTILIZATION

FEA's new authority to issue prohibition orders to powerplants and major fuel burning installations that after June 22, 1974 acquired or were designed with the capability and necessary plant equipment to burn coal and to those that have been issued a construction order, requires a change to the language of the first finding FEA must make before it issues a prohibition order. The first finding for a powerplant or major fuel burning installation that has been issued a construction order would be only the fact of the issuance of a construction order. These changes would be accomplished by the proposed amendment of § 305.3(b)(1).

Section 305.9 will be revised to maintain consistency between Parts 305 and 307 regarding the timing of the publication of the ESECA programmatic environmental impact statement and revisions thereof. It is proposed that for both prohibition orders and construction orders, notices of intention to issue orders (and any associated notices of public hearings) will specifically request comments regarding the environmental impact of FEA's proposed action. These comments and the comments received following the publication of the revised programmatic environmental impact statement will be reviewed along with the impact statement itself as part of the FEA's consideration of environmental impacts prior to issuance of the orders. Paragraph (c) of this section will continue to require the analysis by the FEA prior to the issuance of a notice of effectiveness of the site-specific impacts of individual orders.

IV. PART 307—NEW POWERPLANTS AND NEW MAJOR FUEL BURNING INSTALLATIONS

A substantial revision of Part 307 is being proposed because of the authority in EPCA that enables FEA to issue construction orders to major fuel burning installations in the early planning process. Many of the proposed changes, however, consist only of adding the words "or major fuel burning installations" to provisions that previously only applied to powerplants, and these changes are not separately discussed.

Definitions (§ 307.2). As previously indicated, the current definition of early planning process would be revised to describe the early planning process stage as it applies to major fuel burning installations.

Comments regarding the definition of early planning process for major fuel burning installations and the definition of the preliminary feasibility study which is the beginning event in the early planning process specifically are requested with respect to (i) the appropriateness of the proposed beginning and end events, taking into account that the definition of early planning process must be broadly applicable to the wide variety of combustors of fuel that potentially are candidates for construction orders; (ii) ambiguities, if any, inherent in the events that have been selected to define the early planning process that could cause difficulties for the FEA in determining whether installations are in, about to enter, or about to leave the early planning process, (iii), with respect to the beginning event, whether a feasibility or similar study routinely is undertaken in advance of the acquisition and installation of a combustor; and (iv), with respect to the end event, what criteria should be used by FEA in determining whether a construction order can be issued without imposing a special finanical or operational hardship on the installation's owner. Suggestions for other events or other ways of describing the early planning process also are solicited.

Findings and "other factors" considered prior to issuance of a construction order (§ 307.3). One of the negative findings FEA must make before it issues a construction order (no impairment of reliability of service) would be modified to indicate that the finding only applies to powerplants. As was explained in discussing proposed revisions in Part 303, FEA is proposing some modification in the language of the factors the FEA will consider separately as a result of the experience gained from administering the coal utilization program. Specifically, the FEA will consider any loss of revenue due to delay in commencement of operations of the powerplant or major fuel burning installation in its analysis of the order recipient's capability to recover any capitalized increased costs due to issuance of the order and not as a separate factor.

Reporting requirement (§ 307.6). FEA is proposing a revision of this section to consolidate the Identification Report requirement provisions for powerplants in the early planning process and to include a continuing reporting requirement for major fuel burning installations planning the construction of new combustors.

Major fuel burning installations in the reporting interval and which met the design firing rate requirements at the time clearance procedures for the Identification Report with the General Accounting Office were completed (December 27, 1976) are required to file an Identification Report with FEA. Thereafter, any major fuel burning installation that enters the reporting

interval and meets the design firing rate requirements would have to file the Report by the fifteenth day of the month subsequent to the month during which the installation entered the reporting interval.

Major fuel burning installations in the reporting interval on or after December 27, 1976 but which do not then meet the design firing rate requirements are required to report if and when they subsequently meet the design firing rate requirements (because another major fuel burning installation at the same location entered the reporting interval).

The FEA interprets the end point of the reporting interval, completion of the combustor foundation, as including both completion of new foundations and completion of modifications to existing foundations.

V. Comment Procedures

Interested persons are invited to participate in this proceeding by submitting written data, views or arguments with respect to the proposed amendments to the coal utilization regulations set forth in this notice to Executive Communications, Room 3309, Federal Energy Administration, Box LI, Washington, D.C. 20461. These comments may be hand delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

Comments should be identified on the outside envelope and on the face of the documents submitted to FEA Executive Communications with the designation "Amendments to ESECA Regulations"; fifteen copies should be submitted. All comments should be received by April 20, 1977 before 4:30 p.m., e.s.t., to assure full consideration by FEA before final action is taken on the proposed amendments.

A public hearing on this proposed rulemaking will be held beginning at 9:30 a.m. on April 13, 1977, in Room 3000A, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., to receive oral presentation of data, views and arguments from interested persons. Any person who has an interest in the subject of the hearing, or who is a representative of a group or class of persons which has an interest in the subject of the hearing, may make a written request for an opportunity to make oral presentation. That request should be directed to Executive Communications, FEA, Room 3309, Box LI, Washington, D.C. 20461, and must be received before 4:30 p.m., e.s.t., April 1, 1977. The request may be hand-delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m., and 4:30 p.m., Monday through Friday.

The person making the request for oral presentation should describe the interest concerned; if appropriate, state why he or she is a proper representative of a group or class of persons which has such an interest; and give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through April 8, 1977. Speakers will be contacted by an FEA representative before 5:30 p.m., April 4, 1977, to confirm receipt of the written request. One hundred copies of their proposed presentation should be sent by the speakers to Executive Communications, FEA, Room 3309, Federal Building, Washington, D.C. 20461, before 4:30 p.m., April 8, 1977.

The FEA reserves the right to limit the number of representatives of a particular group or class of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the meeting. The length of time allocated to each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. It will not be a judicial or evidentiary hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the FEA and made available for inspection at the Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington. D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

The Federal Energy Administration has determined that this document contains a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949 and OMB Circular A-107 and certifies that an Economic Impact Statement has been prepared.

Pursuant to section 7(c) of the Federal Energy Administration Act of 1974, a copy of these proposed amendments has been submitted to the Environmental Protection Agency for its comments concerning the impact of this proposal on the quality of the environment. EPA's comments are:

> We recommend that the words "* * * section 119 of that Act * * *," which appears under the headings "303.37(b)(1) Decision and Order" and "305.7 Effective Date of Prohibition Orders" be changed to "all applicable air pollution requirements." Also, in the definition of "primary energy source" in sections 307.2 and 309.2, we believe EPA should be allowed the flexibility to make necessary fuel use determinations under any circumstances, particularly where health related considerations are concerned.

Finally, we recommend that the "Consideration of environmental impacts" in sections 305.9 and 307.7 provide for the thorough referencing by FEA of all pertinent environmental impact data or analyses available, but not contained, in a specific environmental impact statement. This should continue to provide FEA, and the general public, manageable yet adequately referenced and detailed environmental impact analyses.

Issued in Washington, D.C., March 16, 1977.

Eric J. Fygi,
Acting General Counsel.

PART 303—ADMINISTRATIVE PROCEDURES AND SANCTIONS

10 CFR Part 303 is amended as follows:

1. The Table of Contents for Subpart A of Part 303 is amended by deleting the words "303.13 Public docket room." and by inserting the words "303.13 Exceptions and Appeals Docket Room/Freedom of Information Reading Room." in lieu thereof.

2. The citation of authority following the Table of Contents to Part 303 is revised to read as follows:

> Authority: Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93-319) (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163; Federal Energy Administration Act of 1974 (Pub. L. 93-275) (15 U.S.C. 761 et seq.), as amended by Pub. L. 94-385; E.O. 11790 (39 FR 23185).

3. Section 303.2 is amended by deleting the definition of "Temporary suspension", by inserting the definitions of "Dispatching system", "Preliminary feasibility study", "Process fuel use", and "Ultimate coal consumer", and by revising the definitions set forth below to read as follows:

§ 303.2 Definitions.

* * * * *

"Air pollution requirement" means any emission limitation, schedule or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation, including the Clean Air Act (except for any requirement prescribed under subsections (c) or (d) of section 119, section 110(a)(2)(F)(v), or section 303 of such Act (42 U.S.C. 1857c-10, 1857c-5(a)(2)(F)(v) and 1857h-1, respectively)), and which limits stationary source emissions resulting from combustion of fuels (including a prohibition on, or specification of, the use of any fuel of any type, grade, or pollution characteristic).

* * * * *

"Combustion gas turbine" means an electric power generating unit that is a combination of a rotary engine driven by a gas under pressure that is created by the combustion of a fuel, usually natural gas or a petroleum product, with an electric power generator driven by such engine.

"Compliance date extension" means an extension issued by the Administrator of EPA in accordance with section 119(c) of the Clean Air Act (42 U.S.C. 1857c-

10(c)) as a result of which a powerplant or major fuel burning installation shall not, until January 1, 1979, be prohibited, by reason of the application of any air pollution requirement, from burning coal which is available to such source, except as otherwise provided in section 119 (d)(3) of that Act (42 U.S.C. 1857c-10 (d)(3)).

* * * * *

"Construction order" means a directive issued by FEA pursuant to section 2(c) of ESECA (15 U.S.C. 792(c)) that requires a powerplant or major fuel burning installation in the early planning process (other than a combustion gas turbine or combined cycle unit) to be designed and constructed to be capable of using coal as its primary energy source.

"Dispatching system" means (1) an integral group of powerplants within a geographical power pool for which there is centralized control of power generation, scheduling, and transmission; or (2) where there is no such integral power system, that powerplant or group of powerplants determined by FEA, in consultation with the Federal Power Commission, to constitute a power generation system sufficient in scope that FEA may make a reliability finding within the meaning of ESECA.

* * * * *

"Early planning process" (1) in the case of powerplants, commences 10 years prior to the planned commencement of the sale or exchange of electric power by a powerplant and terminates with commencement of the driving of the foundation piling, or the equivalent foundation structural event, in accordance with final drawings for the main boiler of the powerplant which were approved prior to commencement of such structural event; and (2) in the case of major fuel burning installations, commences with completion of the preliminary feasibility study and terminates when the FEA determines the major fuel burning installation can no longer be ordered to be designed and constructed so as to be capable of burning coal as its primary energy source without suffering significant financial or operational detriment due to the impairment of prior commitments. Typically, such a termination point will coincide with the completion of the major fuel burning installation's foundation, or the equivalent foundation structural event, in accordance with final drawings for the major fuel burning installation which were approved prior to the commencement of such structural event.

* * * * *

"ESECA" means the Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93-319) (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163.

* * * * *

"FEA" means the Federal Energy Administration, including the Federal Energy Administrator, as defined in section 14(a) of ESECA (15 U.S.C. 798(a)), or his delegate.

"FEAA" means the Federal Energy Administration Act of 1974 (Pub. L. 93-275) (15 U.S.C. 761 et seq.), as amended by Pub. L. 94-385.

* * * * *

"Notice of effectiveness" means either a written statement issued by FEA to an existing powerplant or major fuel burning installation, subsequent to a certification or notification by EPA pursuant to section 119(d)(1)(B) of the Clean Air Act (42 U.S.C. 1857c-10(d)(1)(B)), advising such powerplant or installation of the date that a prohibition order applicable to it and the prohibitions contained therein become effective; or a written statement issued by FEA to a powerplant or major fuel burning installation advising such powerplant or installation of the date that a construction order applicable to it becomes effective.

* * * * *

"Preliminary feasibility study" means that analysis, formal or otherwise, which concluded that new, additional, or replacement capacity appears to be required and which precedes the managerial decision to initiate the design of a major fuel burning installation.

"Primary energy source" means, with respect to a powerplant or major fuel burning installation that utilizes a fossil-fuel, the fuel that is or will be used for all purposes except for the minimum amounts required for startup, testing, flame stabilization and control, and process fuel use, and except, with regard to powerplants or major fuel burning installations issued prohibition orders that also are issued compliance date extensions by EPA in accordance with section 119 of the Clean Air Act (42 U.S.C. 1857c-10), for such minimum amounts of fuel required to enable such powerplant or major fuel burning installation to comply with applicable primary standard conditions prescribed by EPA in accordance with 40 CFR 55.04, *Provided*, Such minimum amounts of fuel may be used only when such primary standard conditions include the utilization of intermittent control systems and only during such temporary periods as use of such minimum amounts is absolutely necessary to meet the terms of the primary standard conditions relating to use of intermittent control systems.

* * * * *

"Process fuel use" means that fuel use for which alternate fuels are not technically feasible such as in applications requiring precise temperature control and precise flame characteristics.

"Prohibition order" means a directive issued by FEA pursuant to sections 2 (a) and (b) of ESECA (15 U.S.C. 792 (a) and (b)) that prohibits a powerplant or major fuel burning installation from burning natural gas or petroleum products as its primary energy source.

* * * * *

"Sationary source fuel or emission limitations" means any emission limitation, schedule or timetable or compliance, or other requirement, which is prescribed under the Clean Air Act (other than sections 119, 111(b), 112, or 303 (42 U.S.C. 1857c-10, 1857c-6(b), 1857c-7, and 1857h-1, respectively)) or contained in an applicable implementation plan (other than a requirement imposed under authority described in section 110 (a)(2)(F)(v) of such Act (42 U.S.C. 1857c-5 (a)(2)(F)(V), and which limits, or is designed to limit, stationary source emissions resulting from combustion of fuels, including a prohibition on, or specification of, the use of any fuel of any type, grade, or pollution characteristic.

* * * * *

"Supply order" means a directive issued by FEA pursuant to a rule promulgated pursuant to section 2(d) of ESECA (15 U.S.C. 792(d)) requiring that an authorized purchaser (including a powerplant, major fuel burning installation, an ultimate coal consumer, a supplier or other person) be provided coal by a designated supplier (or other person) in accordance with stated terms and conditions.

"Ultimate coal consumer" means any person who obtains coal for its own use and not for resale.

* * * * *

§ 303.4 [Amended]

4. In § 303.4, paragraph (b)(1) is amended by deleting the words "a modification of a prohibition order that is applicable for a period ending prior to or on June 30, 1975 to make it applicable after June 30, 1975, or for", and paragraph (b)(3) is amended by deleting "§ 307.107(a)(3)" and inserting "§ 303.107(a)(3)" in lieu thereof.

5. In § 303.8, the second sentence of paragraph (c) is amended by deleting the word "not", and paragraph (h)(3) is added to read as follows:

§ 303.8 Subpoenas; witness fees.

* * * * *

(h)(3) While the Administrator of FEA or such other designated FEA official specified in paragraph (h)(1) of this section is considering the application to quash or modify the subpoena, a stay of the obligation to comply with the subpoena may be issued in accordance with Subpart I.

* * * * *

6. In § 303.9, the first sentence of paragraph (d)(1) is revised to read as follows; and a new paragraph (f)(3) is added to read as follows:

§ 303.9 General filing requirements.

* * * * *

(d) *Obligation to supply information.* (1) A person who files an application, petition, complaint, appeal or other request for action and other documents relevant thereto, or to whom a prohibition order or a construction order is issued, is under a continuing obligation during the proceeding to provide the FEA with any new or newly discovered information that is relevant to that proceeding. * * *

* * * * *

(f) * * *

(3) This paragraph (f) does not apply where information is being submitted

on an FEA form which contains its own instructions as to requests for confidential treatment of information provided therein.

* * * * *

7. In § 303.10, the first sentence of paragraph (a) is amended by deleting "(or modification thereof)", and the first sentences of paragraphs (b) (1) and (2) are revised to read as follows:

§ 303.10 Effective date of orders.

* * * * *

(b) (1) A prohibition order shall not become effective before certain action by EPA, actions by FEA as described in § 305.9 of this chapter, and service by FEA upon the affected powerplant or major fuel burning installation of a "Notice of Effectiveness" in accordance with § 305.7 of this chapter. * * *

(2) A construction order shall not become effective before certain actions by FEA described in § 307.7 of this chapter and service by FEA upon the affected powerplant or major fuel burning installation of a "Notice of Effectiveness" in accordance with § 307.5 of this chapter. * * *

8. In § 303.12, paragraph (a) (2) is revised to read as follows, and paragraph (b) is amended by deleting "OFU" and inserting "OCU" in lieu thereof.

§ 303.12 Addresses for filing documents with the FEA.

(a) * * *

(2) The FEA National Office has facilities for the receipt of transmissions via TWX and FAX to its offices at 12th and Pennsylvania Avenue, N.W., and 2000 M Street, N.W. (The FAX machines are 3M full duplex 4 or 6 minute (automatic) and Dex 4100 Graphic Science full duplex 3 or 6 minute (automatic).) For purposes of Parts 303, 305, 307 and 309 of this chapter, all transmissions should be to the machines at 12th and Pennsylvania Avenue, N.W., except those to be sent to the Office of Exceptions and Appeals which should be transmitted to the machines at 2000 M Street, N.W.

FAX NUMBERS

(202) 566-9304 (3M) (12th and Penn.)
(202) 566-9864 (Dex) (12th and Penn.)
(202) 254-6175 (3M) (2000 M St.)
(202) 254-6461 (3M) (2000 M St.)
(202) 254-8906 (Dex) (2000 M St.)

TWX NUMBERS

(710) 822-1912 (12th and Penn.)
(710) 822-9454 (2000 M St.)
(710) 822-9459 (2000 M St.)

9. Section 303.13 is revised to read as follows;

§ 303.13 Exceptions and Appeals Docket Room/Freedom of Information Reading Room.

(a) There shall be made available at the Exceptions and Appeals Docket Room (2000 M Street NW., Washington, D.C.) for public inspection and copying:

(1) A list of all persons who have applied for an exception, an exemption, or an appeal, and a digest of each application; and

(2) Each decision and statement setting forth the relevant facts and legal basis of an order, with confidential information deleted, issued in response to an application for an exception or exemption or at the consclusion of an appeal.

(b) There shall be made available at the Freedom of Information Reading Room (Federal Building, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C.) for public inspection and copying:

(1) The written comments received from interested persons in connection with issuance of prohibition orders or construction orders, or the modification or rescission thereof, if applicable, with a verbatim transcript of any oral comments made at a public hearing held prior to issuance of an order;

(2) The comments received during each rulemaking proceeding, with a verbatim transcript of the public hearing, if such a public hearing was held; and

(3) Any other information required by statute to be made available for public inspection and copying, and any information that the FEA determines should be made available to the public through display in the Freedom of Information Reading Room.

10. In § 303.30, paragraph (a) is revised to read as follows:

§ 303.30 Purpose and scope.

(a) This subpart establishes the procedures for the filing by any powerplant or major fuel burning installation of an application for a prohibition order, which application shall be filed only by a powerplant or major fuel burning installation.

* * * * *

§ 303.33 [Amended]

11. Section 303.33 is amended by deleting "1975" and inserting "1977" in lieu thereof.

12. Section 303.34 is revised to read as follows:

§ 303.34 Notice.

Prior to issuance of a prohibition order, either in response to an application or on its initiative, FEA shall publish notice of the intention to issue such order in the FEDERAL REGISTER and shall serve a copy of such notice on the powerplant or major fuel burning installation that would be affected by the proposed order. The notice shall describe the proposed action, state the content of the proposed prohibition order an provide a period of no less than 10 days from the date of its publication in which interested persons may file written data, views or arguments, and shall set a date, time and place at which there shall be an opportunity for interested persons to make oral presentation of data, views and arguments in accordance with Subpart N of this part.

13. In § 305.35, paragraph (a) (2) is revised to read as follows:

§ 303.35 Contents.

(a) * * *

(2) Information regarding the applicant's capability to burn coal as of June 22, 1974 and (i) an identification and description of any plant equipment or facilities necessary to the burning of coal that the applicant would have had to acquire or refurbish to render the powerplant or major fuel burning installation capable of burning coal on June 22, 1974, or (ii) with respect to an applicant that after June 22, 1974 acquires or is designed with the capability and necessary plant equipment to burn coal, an identification and description of (A) any plant equipment or facilities the applicant has acquired since June 22, 1974 (or that have been designed for or by the applicant since that date) that are necessary to the burning of coal and (B) any plant equipment or facilities that, as of the date of the application, the applicant has acquired or refurbished (or intends to acquire or refurbish) to render the powerplant or major fuel burning installation capable of burning coal; or (iii) with respect to an applicant that has been issued a construction order under section 2(c) of ESECA (15 U.S.C. 792(c)), a copy of such order or reference to such order by docket number.

* * * * *

14. Section 303.36 is amended as follows: In the second sentence of paragraph (a) (1), the word "parties" is deleted and the word "persons" is inserted in lieu thereof, and the words "powerplant of major" are deleted and the words "powerplant or major" are inserted in lieu thereof; in the first sentence of paragraph (a) (2), the words "by the applicant" are inserted after the word "submitted" and before the","; in paragraph (a) (3), "1975" is deleted and "1977" is inserted in lieu thereof; and paragraph (b) is revised.

§ 303.36 FEA evaluation.

* * * * *

(b) *Criteria.* The decision with respect to an application and the decision with respect to an FEA-initiated proceeding shall depend on whether FEA can make the findings stated in §§ 305.3(b) or 305.4(b) of this chapter, as appropriate, and shall include a consideration of the factors stated in § 305.4(c) of this chapter, as appropriate.

15. In § 303.37, paragraphs (b) (1), (b) (2) and (c) are revised; and in the last sentence of paragraph (d) the phrase "such notice shall be served" is deleted and the phrase "such Notice of Effectiveness shall be served" is inserted in lieu thereof.

§ 303.37 Decision and order.

* * * * *

(b) * * *

(1) The prohibitions stated in prohibition orders shall not become effective (i) until either (A) the Administrator of EPA notifies the FEA, in accordance with section 119(d) (1) (B) of the Clean Air Act (42 U.S.C. 1857c-10(d) (1) (B), that

the powerplant or major fuel burning installation will be able on and after July 1, 1975 to burn coal and to comply with all applicable air pollution requirements without a compliance date extension, or (B) if no notification is given, the date which the Administrator of EPA certifies pursuant to section 119(d)(1)(B) of the Clean Air Act (42 U.S.C. 1857c–10(d)(1)(B)) is the earliest date that the powerplant or major fuel burning installation will be able to comply with all applicable requirements of section 119 of that Act (42 U.S.C. 1857c–10), and (ii) until FEA has taken the actions described in § 305.9 of this chapter and has served the affected powerplant or major fuel burning installation a Notice of Effectiveness. Such order shall not be effective during any period certified by the Administrator of EPA under section 119(d)(3)(B) of that Act (42 U.S.C. 1857c–10(d)(3)(B)).

(2) Upon receipt of notification or certification by the Administrator of EPA, in accordance with the procedure described in subparagraph (1) of this paragraph, the FEA may issue a Notice of Effectiveness.

(c) The prohibition order or the order denying an application for a prohibition order shall include a written statement of the pertinent facts, a statement of the legal basis upon which the order is issued, and, when the order is a prohibition order, a recitation of the conclusions regarding the findings to be made by FEA in accordance with §§ 305.3(b) or 305.4(b) of this chapter, as appropriate, and a summary of the rationale for each. The order shall provide that it is not a final agency action and that if any person aggrieved thereby files an appeal, such appeal must be filed with the FEA Office of Exceptions and Appeals in accordance with Subpart H of this part; except that an order dismissing the application for a prohibition order filed after June 1, 1977 shall state that it is a final order of which the applicant may seek judicial review. A prohibition order shall provide that the prohibitions stated therein shall become effective on the date stated in the Notice of Effectiveness, which date shall not be earlier than service of such notice, and that it will not be effective for any period certified by the Administrator of EPA pursuant to section 119(d)(3)(B) of the Clean Air Act (42 U.S.C. 1857c–10(d)(3)(B)). The date stated in the Notice of Effectiveness shall be either (1) the date EPA determines in accordance with section 119(d)(1)(B) of the Clean Air Act (42 U.S.C. 1857c–10(d)(1)(B)), or (2) the termination of the period of time that FEA determines is required to acquire or refurbish equipment or facilities necessary for coal burning, other than equipment or facilities necessary to comply with the Clean Air Act, whichever date is later, *Provided,* That for recipients of construction orders the date stated in the Notice of Effectiveness may be that date on which the powerplant or major fuel burning installation is expected to begin operation. The prohibition order shall state that within 90 days after its issuance, the affected powerplant or major fuel burning installation must make application to the EPA for a compliance date extension or, if such powerplant or installation is not eligible for a compliance date extension, it must provide such other information as EPA may by regulation require. Enclosed with the prohibition order may be a schedule of events that must take place by a stated date ("compliance schedule") to insure that the affected powerplant or major fuel burning installation will be able to comply with the prohibitions stated in the prohibition order by the date stated in the Notice of Effectiveness, or such compliance schedule may be enclosed with the Notice of Effectiveness. The compliance schedule may require actions by the affected powerplant or major fuel burning installation at any time subsequent to service of the Notice of Effectiveness.

* * * * * *

§ 303.38 [Amended]

16. Section 303.38 is amended as follows: In the first sentence of paragraph (a), the word "my" is deleted and the word "may" is inserted in lieu thereof; and in paragraph (d), "1975" is deleted and "1977" is inserted in lieu thereof.

17. In § 303.40, paragraph (a) is revised to read as follows:

§ 303.40 Purpose and scope.

(a) This subpart establishes the procedures for the filing by any powerplant or major fuel burning installation in the early planning process (other than a combustion gas turbine or a combined cycle unit) of an application for a construction order, which application shall only be filed by a powerplant or major fuel burning installation.

* * * * * *

18. In § 303.41, the first sentence of paragraph (a) is amended by inserting the words "or major fuel burning installation" after the word "powerplant," and paragraph (b) is revised to read as follows:

§ 303.41 What to file.

* * * * * *

(b) In the case of a powerplant, application may be made for all individual powerplant or for combinations thereof at a single site, and in the case of a major fuel burning installation, application may be made for an individual fossil-fuel fired boiler, burner or other combustor of fuel, or for combinations thereof at a single site. The applicant should specify the powerplant (or powerplants) or combustor (or combinations of combustors) with respect to which application is being made.

* * * * * *

§ 303.43 [Amended]

19. Section 303.43 is amended by deleting "(a)", and by deleting "1975" and inserting "1977" in lieu thereof.

§ 303.44 [Amended].

20. In § 303.44, the first sentence is amended by inserting the words "or major fuel burning installation" after the word "powerplant".

21. Section 303.45 is amended as follows: Paragraphs (a)(1), (2), (3), (4), (5), (6), (7), and (8) are revised to read as follows; and in paragraph (a)(11), the word "office" is deleted and the word "officer" is inserted in lieu thereof.

§ 303.45 Contents.

(a) * * *

(1)(i) *Powerplants.* Description of applicant's proposed powerplant, including, but not limited to, location, electric power and energy output, fuels to be utilized and rate of use thereof, the identification of the electric power dispatching system with which the powerplant will be interconnected and the regional reliability council that would have jurisdiction of the powerplant, projected monthly peak loads for the electric power dispatching system with which the powerplant will be interconnected and the net dependable electrical capacity and energy resources of such system for the three years following the date the powerplant commences the sale or exchange of electric power, and the stage in the early planning process that the powerplant has reached at time of application.

(ii) *Major fuel burning installations.* Description of applicant's fossil-fuel fired boiler, burner or other combustor of fuel, including but not limited to, type of combustor, location, energy output, fuels to be utilized and rate of use thereof, uses to be made of energy output (list Standard Industrial Code classification of products produced using the energy output of the combustor), and the stage of design and construction that the major fuel burning installation has reached at the time of the application.

(2) A description of the modifications to the design and construction of the powerplant or major fuel burning installation, if any, required to render it capable of using coal as its primary energy source, if such capability currently is not planned.

(3) In the case of a powerplant, an analysis of the likelihood that the use of coal would result in the impairment of the powerplant's "reliability or adequacy of service," as such terms are defined in § 307.3(c)(1) of this chapter.

(4) The identification of the type of coal (Btu/lb., percent sulfur, percent ash, percent volatile matter, and ash slagging/sintering characteristics) that is or will be the powerplant's or major fuel burning installation's design specification coal; the source from which the applicant anticipates that it will be able to obtain such coal and the supply's susceptibility to interruption, and the method by which such coal would be transported to the powerplant or major fuel burning installation.

(5) The identification and description of any contractual commitments for the design and/or construction of the powerplant or major fuel burning installation and an analysis of the impact (taking into account the considerations stated in § 307.3(d) of this chapter), if any, of

the requirement that the powerplant or major fuel burning installation be designed and constructed to be capable of using coal as its primary energy source.

(6) An analysis of the capability of the powerplant or major fuel burning installation to recover any increase in projected capital investment that might be required as a result of a construction order.

(7) In the case of a powerplant, the identification of any loss of revenue resulting from a delay, if any, in the commencement of the sale or exchange of electric power, to the extent that electric power will have to be purchased from another powerplant, resulting from a construction order. In the case of a major fuel burning installation, any loss of revenue resulting from a delay, if any, in the commencement of operations of the installation resulting from a construction order.

(8) In the case of a powerplant, the identification of any relevant regulations or policies of any State or local agency with jurisdiction over the sale or exchange of electric power by powerplants.

* * * * *

§ 303.46 [Amended]

22. Section 303.46 is amended as follows: In the second sentence of paragraph (a)(1), the words "or major fuel burning installation's" are inserted after the words "affected powerplant's"; and in paragraph (a)(3), "1975" is deleted and "1977" is inserted in lieu thereof.

23. Section 303.47 is amended as follows: In paragraph (b) the words "or major fuel burning installation" are inserted after the word "powerplant"; paragraph (c) is revised; and in paragraph (d) in the first and second sentences the words "or major fuel burning installation" are inserted after the word "powerplant", and in the second sentence the words "such notice shall be served" are deleted and the words "such Notice of Effectiveness shall be served" are inserted in lieu thereof.

§ 303.47 Decision and order.

* * * * *

(c) The construction order, or the order denying an application for a construction order, shall include a written statement of the pertinent facts, a statement of the legal basis upon which the order was issued, and when the order is a construction order, a recitation of the conclusions regarding the findings to be made and factors to be considered by FEA in accordance with § 307.3 (b), (c), and (d) of this chapter, as appropriate, and a summary of the rationale for each. The order shall provide that it is not a final agency action and that if any person aggrieved thereby files an appeal, such appeal must be filed with the FEA Office of Exceptions and Appeals in accordance with Subpart H of this part; except that an order dismissing an application for a construction order filed after June 1, 1977 shall state that it is a final order of which the applicant may seek judicial review. A construction order shall state that it shall be effective on the date stated in the Notice of Effectiveness, which date shall not be earlier than the date of service of such notice. FEA may impose a reporting schedule to enable FEA to determine that the affected powerplant or major fuel burning installation will comply with the requirements of the order. Such reporting schedule may be enclosed with the construction order or the Notive of Effectiveness.

24. Section 303.48 is amended as follows: Paragraph (c) is revised; and in paragraph (d), "1975" is deleted and "1977" is inserted in lieu thereof.

* * * * *

§ 303.48 Appeal.

(c) If a powerplant or major fuel burning installation applies for a modification or rescission of a construction order, in accordance with Subpart J of this part, any appeal of such construction order shall be suspended until 30 days after and order has been issued in accordance with Subpart J or until 30 days from the date on which such powerplant or major fuel burning installation may treat that application as being denied in all respects.

* * * * *

§ 303.50 [Amended]

25. In § 303.50, the first sentence of paragraph (b) is amended by inserting "(42 U.S.C. 1857c-10(j))" after the words "Clean Air Act", and by inserting "(15 U.S.C. 793(a))" after "ESECA".

§ 303.51 [Amended]

26. Section 303.51 is amended by deleting the words "ultimate consumer of coal" and inserting in lieu thereof the words "ultimate coal consumer".

§ 303.52 Amended]

27. In § 303.52, the first sentence of paragraph (b) is amended by adding "," after the words "in the case of a powerplant".

§ 303.54 [Amended]

28. In § 303.54, paragraph (a) is amended by deletering the words "applicable after June 30, 1975" after the words "prohiibition order".

§ 303.55 [Amended]

29. In FR Doc. 75-17544 appearing at page 28420 in the FEDERAL REGISTER of July 3, 1975, paragraph (a) of § 303.55 appearing on page 28423 is corrected in the first line of that paragraph by deleting the word "only" and by inserting "on" in lieu thereof.

§ 303.56 [Amended]

30. In § 303.56, paragraph (a)(3)(i) is amended by deleting the phrase "other combuster of fuel (or combinations of combusters" and inserting the phrase "other combustor of fuel (or combinations of combustors)" in lieu thereof.

§ 303.57 [Amended]

31. Section 303.57 is amended as follows: In paragraph (b)(1)(ii)(A), "305.7(b)" is deleted and "305.7" is inserted in lieu thereof; and in the first sentence of paragraph (b)(2), "(42 U.S.C. 1857c-10(c))" is inserted after the words "Clean Air Act" and before the ",", and "(15 U.S.C. 751), as amended," is inserted after the words "Emergency Petroleum Allocation Act of 1973" and before the ",".

32. In § 303.58, the first sentence of paragraph (b)(2) is amended by deleting the phrase "other ultimate consumer of coal"; and by inserting the phase, ", other ultimate coal consumer,"; and paragraph (b)(3) is revised to read as follows:

§ 303.58 Decision and order.

* * * * *

(b) * * *

(3) A supply order issued to an ultimate coal consumer located in an area of the United States that has been designated by the Administrator of EPA as an area that requires, to the maximum extent practicable, that available low-sulfur coal be distributed to it on a priority basis to avoid or minimize adverse impact on public health, may state that existing or prospective coal supply contracts between a supplier (or other person) and an ultimate coal consumer located in such area shall be given priority over the supplier's (or other person's) other existing or prospective coal supply contracts.

* * * * *

§ 303.61 [Amended]

33. In § 303.61, the first sentence of paragraph (a)(1) is amended by deleting the phrase "ultimate consumer of coal" and inserting the term "ultimate coal consumer" in lieu thereof; paragraph (a)(2)(ii) is amended by deleting the phrase "ultimate consumers of coal" and inserting the term "ultimate coal consumers" in lieu thereof; the first sentence of paragraph (e)(1) is amended by deleting "§ 309(f)" and inserting "§ 300.9(f)" in lieu thereof; and the second sentence of paragraph (g)(1) is amended by deleting the phrase "relevant third persons submissions." and inserting the phrase "relevant third person submissions." in lieu thereof.

§ 303.73 [Amended]

34. In § 303.73, the third sentence of paragraph (a) is amended by deleting the word "subsection" and inserting the word "paragraph" in lieu thereof.

35. In FR Doc. 75-12195 appearing at page 20462 in the FEDERAL REGISTER of May 9, 1975, §§ 303.85(b), 303.86, 303.87, and 303.88, appearing on page 20475, are corrected to read as follows:

§ 303.85 FEA evaluation.

* * * * *

(b) *Criteria* (1) * * *

(i) The impact that granting the exemption would have on the regulatory scheme and objectives;

(ii) The number of persons who would be exempted; and

(iii) The economic justification for such exemption.

(2) The FEA may summarily deny an application for exemption if—

(i) The exemption sought is not from each or all of Parts 303, 305, 307, or 309, or a subpart thereof, of this chapter;

(ii) The granting of an exemption to the person making the application would not have sufficient national impact, economic or otherwise, to warrant rulemaking proceedings for the purpose of considering an amendment to the regulations;

(iii) It is determined that the statutory criteria cannot be met; or

(iv) It is determined that another proceeding provided by this part is more appropriate.

§ 303.86 Decision and order.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, the FEA shall issue an appropriate order. If the application is not denied, the order shall provide for publication of a Notice of Proposed Rulemaking regarding the application in the FEDERAL REGISTER.

(b) The order shall include a written statement setting forth the pertinent facts and legal basis upon which the order is issued. The order denying the application shall state that any person aggrieved thereby may file an appeal with the Office of Exceptions and Appeals in accordance with Subpart H of this part.

§ 303.87 Timeliness.

If the FEA fails to take action on any application filed under this subpart within 90 days of filing, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart.

§ 303.88 Appeal.

Any person aggrieved by an order issued by the FEA under this subpart that denies an application for exemption may file an appeal with the Office of Exceptions and Appeals in accordance with subpart H of this part. The appeal must be filed within 30 days of service of the order from which the appeal is taken or within 30 days of the date on which the applicant can treat the application as being denied in all respects. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H of this part and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

§ 303.105 [Amended]

36. In § 303.105, the second sentence of paragraph (c) is amended by deleting the words "and service to Notice of Effectiveness," and inserting the words "and service of a Notice of Effectiveness," in lieu thereof.

37. Section 303.106 is amended as follows: The first sentences of paragraphs (a) (2) and (3) are revised to read as follows; and in paragraph (a) (4), the number "(4)" is deleting and the number "(iii)" inserted in lieu thereof.

§ 303.106 Contents.

(a) (1) * * *

(2) An appeal of a prohibition order or of a construction order may not contain an assertion of significantly changed circumstances, as that term is defined in this subpart, and further defined in § 303.136(b) (2). * * *

(3) If the appeal (other than the appeal of a prohibition order or a construction order) includes a request for relief based on significantly changed circumstances, there shall be a complete description of the events, acts, or transactions that comprise the significantly changed circumstances, and the appellant shall state why, if the significantly changed circumstance is new or newly discovered facts, such facts were not or could not have been presented during the prior proceeding. * * *

* * * * *

38. Section 303.107 is amended as follows: In the first sentence of paragraph (a) (3) (iii), the phrase "(b) (1) of this section," is deleted and the phrase "(a) (3) (ii) of this section" is inserted in lieu thereof; paragraph (b) (2) (iii) is revised to read as follows; and paragraph (b) (3) is inserted.

§ 303.107 FEA evaluation.

* * * * *

(b) (1) * * *

(2) * * *

(iii) The FEA's action was arbitrary or capricious.

(3) The denial of an appeal shall be a final order of the FEA of which the appellant may seek judicial review.

§ 303.108 [Amended]

39. In § 303.108, the first and second sentences of paragraph (d) are amended by deleting the words "public docket room" and inserting the words "Freedom of Information Reading Room" in lieu thereof.

40. In FR Doc. 75-12163 appearing at page 20462 in the FEDERAL REGISTER issue of May 9, 1975, the phrase that precedes § 303.109(a) on page 20477 is corrected to read as follows:

§ 303.109 Appeal of a remedial order.

The appeal of a remedial order shall be in accordance with the procedures stated in this subpart, *except:* * * *

* * * * *

§ 303.110 [Amended]

41. In § 303.110, the first sentence of paragraph (c) is amended by inserting the word "order" between the words "or construction" and "that is the subject".

42. Section 303.120 is revised to read as follows:

§ 303.120 Purpose and scope.

(a) This subpart establishes the procedures for the application for and granting of a stay by the FEA.

(b) An application for a stay will only be considered:

(1) Incident to or pending an appeal from an order of the FEA;

(2) Incident to an application for an exception from the application of any FEA regulations, rulings or generally applicable requirements when the stay sought is of the same regulation, ruling or generally applicable requirement from which the exception is sought;

(3) Incident to an application for modication or rescission of an issued and effective prohibition order or construction order;

(4) As provided in § 303.8(h), incident to an application to quash or modify an administrative subpoena; or

(5) Pending judicial review.

(c) All FEA orders, regulations, rulings, and generally applicable requirements shall be complied with unless and until an application for a stay is granted.

43. In § 303.122, paragraph (c) is revised to read as follows and paragraph (e) is inserted.

§ 303.122 Where to file.

* * * * *

(c) An application for stay of an issued and effective prohibition order or construction order incident to an application for modification or rescission of such order shall be filed with the FEA National Office at the address provided in § 303.12.

* * * * *

(e) An application for stay of an administrative subpoena pending review by the Administrator of FEA or such other designated FEA official specified in § 303.8(h) (1) of this part of an application to quash or modify the subpoena, shall be filed with such persons, as appropriate, at the address provided in § 303.12.

44. Section 303.133, is revised to read as follows:

§ 303.133 When to file.

(a) An application for modification or rescission of a prohibition order or a construction order based on significantly changed circumstances, which circumstances occurred during the interval between issuance of such orders and service of a Notice of Effectiveness, shall be filed within 30 days of service of such notice.

(b) An application for modification or rescission of a prohibition order or construction order based on significantly changed circumstances other than those stated in paragraph (a) of this section may be filed at any time after the Notice of Effectiveness is served.

45. Section 303.134 is revised to read as follows:

§ 303.134 Notice.

(a) Prior to issuance of an order modifying or rescinding a prohibition order or a construction order, either in response to an application or on its initiative, FEA may publish notice of the intention to take such action in the FEDERAL REGISTER and shall serve a copy of any such notice on the powerplant or major fuel burning installation that would be affected by the proposed order. Any such notice shall describe the proposed action and provide a period of no less than 10 days from

the date of publication in which interested persons may file written data, views or arguments.

(b) If FEA on its initiative commences a proceeding for the modification or rescission of a prohibition order or construction order and does not publish in the FEDERAL REGISTER a notice of its intention to take such action, it shall give notice, either by service of a written notice or by verbal communication, which communication shall be promptly confirmed in writing, to each person who was served the order that FEA proposes to modify or rescind. A reasonable period of time shall be given for each person notified to file a written response or give a verbal communication, which communication shall be promptly confirmed in writing.

46. Section 303.135 is amended as follows: The first sentence of paragraph (a)(1), is revised; in the first sentence of paragraph (a)(2), "§ 303.136(b)(2)" is deleted and "§ 303.136(b)" inserted in lieu thereof; paragraph (b) is deleted; and paragraphs (c) and (d) are revised and redesignated.

§ 303.135 Contents.

(a)(1) An application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, acts or transactions that are the subject of the application and to the FEA action sought. * * *

* * * * *

(b) The applicant shall state whether he requests or intends to request that there be a conference regarding an application. Any request not made at the time the application is filed shall be made as soon thereafter as possible, to insure that the conference is held when it will be most beneficial. The request and the FEA's determination regarding it shall be made in accordance with Subpart N of this part, which determination is in FEA's discretion.

(c) The application shall include a discussion of all relevant authorities, including but not limited to, FEA or EPA rulings, regulations, interpretations, and decisions on appeals and exceptions relied upon to support the action sought therein.

47. Section 303.136 is amended as follows: Paragraph (b) is revised and paragraph (c) is inserted.

§ 303.136 FEA evaluation.

* * * * *

(b) *Criteria.* FEA's decision with respect to modification or rescission of a prohibition order or a construction order, except as provided in paragraph (c) of this section, shall be based on a determination that there are significantly changed circumstances. For purposes of this paragraph, the term "significantly changed circumstances" shall mean:

(1) The discovery of material facts that were not known or could not have been known at the time of the proceeding and action upon which the application is based—in particular, (i) those that would substantially affect the findings made by FEA in accordance with §§ 305.3(b), 305.4(b) or 307.3 (b) and (c) of this chapter, or the factors considered pursuant to §§ 305.4(c) or 307.3(d) of this chapter; and (ii) those developed in connection with FEA's actions taken pursuant to §§ 305.9 and 307.7 of this chapter.

(2) The discovery of a law, regulation, interpretation, ruling, order or decision on appeal or exception that was in effect at the time of the proceeding upon which the application or order is based and which, if such had been made known to the FEA, would have been relevant to the proceeding and would have substantially altered the outcome; or

(3) There has been a substantial change in the facts or circumstances upon which was based an outstanding and continuing prohibition order or construction order, which change occurred during the interval between issuance of such orders and service of a Notice of Effectiveness, or occurred during the interval after service of a Notice of Effectiveness and prior to the application for modification or rescission of a prohibition order or construction order, and was caused by forces or circumstances beyond the control of the applicant.

(c) FEA's decision with respect to the modification or rescission of a prohibition order or a construction order in a proceeding commenced at FEA's initiative may be based on grounds other than a determination that there are "significantly changed circumstances."

§ 303.137 [Amended]

48. Section 303.137 is amended as follows: Paragraphs (a)(1), (a)(2) and (b)(1) are deleted; in paragraph (b)(2), the words "(2) *Other prohibition orders.*" are deleted and the words "(b) *Prohibition orders.*" are inserted in lieu thereof; and in the third sentence of the new paragraph (b), "(42 U.S.C. 1857c-10(d)(3)(B))" is inserted after the word "Act" and before the ".".

49. Section 303.138 is revised to read as follows:

§ 303.138 Timeliness.

(a) If the FEA fails to take action on an application for modification or rescission of a prohibition order or a construction order within 90 days of filing, the applicant may treat the application as having been denied in all respects, and may appeal therefrom as provided in this subpart.

(b) Notwithstanding the provisions of paragraph (a) of this section, the applicant may treat the application as having been denied in all respects and may seek appeal therefrom as provided in this subpart if FEA fails to issue an order granting or denying the application within 150 days of the filing of such application.

(c) For purposes of this section, the term "action" includes service of a "Notice of Intention to Modify (or Rescind) Prohibition Order (or Construction Order)" on the applicant.

50. In § 303.139, paragraphs (b) and (c) are revised to read as follows:

§ 303.139 Appeal.

* * * * *

(b) The appeal of an order issued pursuant to this subpart shall be filed within 30 days of service of the order or within 30 days of the date on which the applicant can treat the application as being denied in all respects, except as provided in paragraph (c) of this section.

(c) When an order modifying a prohibition order or construction order is the result of a proceeding initiated by FEA prior to issuance of a Notice of Effectiveness, there shall be no appeal of such order until service of the Notice of Effectiveness; such appeal shall be filed within 30 days after issuance of the Notice of Effectiveness. If an order rescinding a prohibition order is the result of a proceeding initiated by FEA prior to issuance of the Notice of Effectiveness any appeal of such rescission order shall be filed within 30 days of service of the rescission order.

* * * * *

51. In § 303.140, the second sentence of paragraph (a) is revised to read as follows:

§ 303.140 Purpose and scope.

(a) * * * Modification or rescission is a summary proceeding that will be initiated only if the criteria described in § 303.145(b) are satisfied, unless the proceeding is commenced at FEA's initiative as provided in § 303.145(c).

* * * * *

§ 303.145 [Amended]

52. In FR Doc. 75-12195 appearing at page 20462 in the FEDERAL REGISTER of May 9, 1975, the topic heading in § 303.145(a)(3) on page 20482, is corrected by deleting "Failure to satisfy requirements." and inserting *"Failure to satisfy requirements."* in lieu thereof.

53. Section 303.145 is amended by inserting paragraph (c), to read as follows:

§ 303.145 FEA Evaluation.

* * * * *

(c) FEA's decision with respect to the initiation of a proceeding to modify or rescind an order (other than a prohibition order or a construction order) or interpretation commenced on FEA's initiative shall be in its discretion, and FEA's decision in such proceeding with respect to the modification or rescission of such order or interpretation may be based on grounds other than a determination that there are "significantly changed circumstances."

* * * * *

§ 303.170 [Amended]

54. Section 303.170 is amended by deleting the words "requirements of FEA" and inserting the words "requirements of the FEAA" in lieu thereof.

55. In § 303.173, paragraph (a) is revised to read as follows; and the second sentence in paragraph (g) is amended by deleting the words "public docket room" and inserting the words "Excep-

tions and Appeals Docket Room or Freedom of Information Reading Room, as appropriate," in lieu thereof.

§ 303.173 Public hearings.

(a) A public hearing shall be convened prior to issuance of a prohibition order.

* * * * *

§ 303.191 [Amended]

56. In § 303.191, paragraph (d) is amended by deleting the words "appeal and exception" and inserting "appeals and exceptions" in lieu thereof.

57. In § 303.200, the first sentence of paragraph (a) is revised and the second sentence of paragraph (b) is amended by deleting "representatives" and inserting the word "representatives" in lieu thereof.

§ 303.200 Investigations.

(a) *General.* The FEA may, in its discretion, initiate investigations relating to compliance by any person with any rule, regulation, or order promulgated by the FEA under the authority of sections 2 and 12 of ESECA (15 U.S.C. 792 and 797, respectively), any decree of court relating thereto, or any other agency action.***

* * * * *

§ 303.203 [Amended]

58. In § 303.203, the first sentence is amended by deleting the words "this part 303, Part 305 or 307" and inserting the words "Parts 303, 305, 307 or 309" in lieu thereof, and the last sentence is amended by inserting "(15 U.S.C. 797)" between "ESECA" and the ".".

PART 305—COAL UTILIZATION

10 CFR Part 305 is amended as follows:

59. The Table of Contents to Part 305 is amended as follows: After the numbers "305.6", the words "Consultation with EPA." are deleted and the word "[Reserved.]" is inserted in lieu thereof.

60. The citation of authority following the Table of Contents to Part 305 is revised to read as follows:

AUTHORITY: Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93-319) (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163; Federal Energy Administration Act of 1974 (Pub. L. 93-275) (15 U.S.C. 761 et seq.), as amended by Pub. L. 94-385; E.O. 11790 (39 FR 23185).

§ 305.1 [Amended]

61. In § 305.1, paragraph (b) is amended by inserting "(15 U.S.C. 792)" after "ESECA."

62. Section 305.2 is amended by deleting the definition of "Temporary Suspension", by inserting the definitions of "Dispatching system", "Notice of Effectiveness", and "Process fuel use", and by revising the definitions set forth below to read as follows:

§ 305.2 Definitions.

* * * * *

"Action" means a prohibition order, or modification or rescission of such order, issued by FEA pursuant to sections 2 (a) and (b) of ESECA (15 U.S.C. 792).

"Air pollution requirement" means any emission limitation, schedule or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation, including the Clean Air Act (except for any requirement prescribed under subsections (c) or (d) of section 119, section 110(a)(2)(F)(v), or section 303 of such Act (42 U.S.C. 1857c-10 (c), (d), 1857c-5(a)(2)(F)(v) and 1857h-1, respectively)), and which limits stationary source emissions resulting from combustion of fuels (including a prohibition on, or specification of, the use of any fuel of any type, grade, or pollution characteristic).

* * * * *

"Compliance date extension" means an extension issued by the Administrator of EPA in accordance with section 119(c) of the Clean Air Act (42 U.S.C. 1857c-10 (c)) as a result of which a powerplant or major fuel burning installation shall not, until January 1, 1979, be prohibited, by reason of the application of any air pollution requirement, from burning coal which is available to that source, except as otherwise provided in section 119(d)(3) of that Act (42 U.S.C. 1857c-10(d)(3)).

"Dispatching system" means (1) an integral group of powerplants within a geographical power pool for which there is centralized control of power generation, scheduling, and transmission; or (2) where there is no such integral power system, that powerplant or group of powerplants determined by FEA, in consultation with the Federal Power Commission, to constitute a power generation system sufficient in scope that FEA may make a reliability finding within the meaning of ESECA.

* * * * *

"ESECA" means the Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93-319) (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163.

"FEA" means the Federal Energy Administration, including the Federal Energy Administrator as defined in section 14(a) of ESECA (15 U.S.C. 798(a)), or his delegate.

* * * * *

"Notice of Effectiveness" means either a written statement issued by FEA to an existing powerplant or major fuel burning installation, subsequent to a certification or notification by EPA pursuant to section 119(d)(1)(B) of the Clean Air Act (42 U.S.C. 1857c-10(d)(1)(B)), advising such powerplant or installation of the date that a prohibition order applicable to it and the prohibitions contained therein become effective; or a written statement issued by FEA to a powerplant or major fuel burning installation advising such powerplant or installation of the date that a construction order applicable to it becomes effective.

* * * * *

"Primary energy source" means, with respect to a powerplant or major fuel burning installation that utilizes a fossil-fuel, the fuel that is or will be used for all purposes except for the minimum amounts required for startup, testing, flame stabilization and control, and process fuel use; and except, with regard to powerplants or major fuel burning installations issued prohibition orders that also are issued compliance date extensions by EPA in accordance with section 119 of the Clean Air Act (42 U.S.C. 1857-10), for such minimum amounts of fuel required to enable such powerplant or major fuel burning installation to comply with applicable primary standard conditions prescribed by EPA in accordance with 40 CFR 55.04, *Provided*, Such minimum amounts of fuel may be used only when such primary standard conditions include the utilization of intermittent control systems and only during such temporary periods as use of such minimum amounts is absolutely necessary to meet the terms of the primary standard conditions relating to use of intermittent control systems.

* * * * *

"Process fuel use" means that fuel use for which alternate fuels are not technically feasible such as in applications requiring precise temperature controls and precise flame characteristics.

"Prohibition order" means a directive issued by FEA pursuant to sections 2(a) and (b) of ESECA (15 U.S.C. 792(a), (b)) that prohibits a powerplant or major fuel burning installation from burning natural gas or petroleum products as its primary energy source.

"Stationary source fuel or emission limitation" means any emission limitation, schedule or timetable of compliance, or other requirement, which is prescribed under the Clean Air Act (other than sections 119, 111(b), 112, or 303 (42 U.S.C. 1857c-10, 1857c-6(b), 1857c-7 and 1857h-1, respectively)) or contained in an applicable implementation plan (other than a requirement imposed under authority described in section 110(a)(2)(F)(v) of such Act (42 U.S.C. 1857c-5(a)(2)(F)(v))), and which limits, or is designed to limit, stationary source emissions resulting from combustion of fuels, including a prohibition on, or specification of, the use of any fuel of any type, grade, or pollution characteristic.

* * * * *

63. Section 305.3 is amended as follows: The first two sentences of paragraph (b)(1) are revised and paragraph (d) is deleted.

§ 305.3 Powerplants.

* * * * *

(b) * * *

(1) The powerplant (i) on June 22, 1974 had, or thereafter acquires or is designed with, the "capability and necessary plant equipment" to burn coal, or (ii) has been issued a construction order pursuant to Parts 303 and 307 of this chapter. For purposes of determining whether a powerplant had on June 22, 1974, or thereafter acquires or is designed with, the capability and necessary plant equipment to burn coal,

FEA will evaluate coal and ash handling facilities and appurtenances—internal and external; availability of land for the storage of coal; and other equipment such as a boiler, unloaders, conveyors, crushers, pulverizers, scales, burners, soot blowers, and special coal-burning instrumentation and controls. * * *

* * * * *

64. Section 305.4 is amended as follows: The first two sentences of paragraph (b)(1) are revised; paragraph (d) is deleted; and paragraph (e) is relettered (d) accordingly.

§ 305.4 Major fuel burning installations.

* * * * *

(b) * * *

(1) The major fuel burning installation has a design firing rate of 100 million Btu's per hour or greater and (i) on June 22, 1974 had, or thereafter acquires or is designed with, the "capability and necessary plant equipment" to burn coal, or (ii) has been issued a construction order pursuant to Parts 303 and 307 of this chapter. For purposes of determining whether a major fuel burning installation had on June 22, 1974, or thereafter acquires or is designed with, the capability and necessary plant equipment to burn coal, FEA will evaluate coal and ash handling facilities and appurtenances—internal and external; availability of land for the storage of coal; and other equipment such as a boiler, burner or other combustor of fuel, unloaders, conveyors, crushers, pulverizers, scales, burners, soot blowers, and special coal-burning instrumentation and controls. * * *

* * * * *

65. Section 305.5 is revised to read as follows:

§ 305.5 Public participation.

No powerplant or major fuel burning installation shall be issued an order prohibiting that powerplant or installation from burning natural gas or petroleum products as its primary energy source unless prior to issuance of such order there has been published in the FEDERAL REGISTER a notice of FEA's intent to issue a prohibition order and an opportunity given to interested persons to make oral and written presentation of data, views and arguments.

66. Section 305.6 is revoked and reserved, as follows:

§ 305.6 [Reserved]

67. Section 305.7 is revised to read as follows:

§ 305.7 Effective date of prohibition orders.

The prohibitions stated in a prohibition order issued to a powerplant or major fuel burning installation shall not become effective—

(a) Until either (1) the Administrator of EPA notifies the FEA, in accordance with section 119(d)(1)(B) of the Clean Air Act (42 U.S.C. 1857c-10(d)(1)(B)), that the powerplant or installation will be able on and after July 1, 1975 to burn coal and to comply with all applicable air pollution requirements without a compliance date extension, or (2) if no notification is given, the date that the Administrator of EPA certifies, pursuant to section 119(d)(1)(B) of the Clean Air Act (42 U.S.C. 1857c-10(d)(1)(B)), is the earliest date that the powerplant or installation will be able to burn coal and to comply with all applicable requirements of section 119 of that Act (42 U.S.C. 1857c-10), and;

(b) until FEA has taken the actions described in § 305.9 of this part and has served the affected powerplant or major fuel burning installation a Notice of Effectiveness, as provided in §§ 303.10(b) and 303.37(b) of this chapter. Such order shall not be effective during any period certified by the Administrator of EPA under section 119(d)(3)(B) of such Act (42 U.S.C. 1857c-10(d)(3)(B)).

68. Section 305.8 is amended as follows: In the first sentence of paragraph (a), "1978" is deleted and "1984" is inserted in lieu thereof; paragraph (b) is revised; and in paragraph (c), "42 U.S.C. 1857c-(d)(3)(B))" is inserted after the words "Clean Air Act" and before the ".".

§ 305.8 Modification, rescission and suspension of prohibition orders.

* * * * *

(b) Notice of intention to modify or rescind any prohibition order may be published in the FEDERAL REGISTER. The notice shall provide interested persons with an opportunity to make written presentation of data, views and arguments regarding such action.

* * * * *

69. Section 3035.9 is revised to read as follows:

§ 305.9 Consideration of environmental impacts.

(a) Prior to issuance of a prohibition order, FEA shall publish a programmatic environmental impact statement in accordance with section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) and in accordance with Part 208 of this chapter. Such statement shall include a discussion of the environmental impact of and alternatives to the ESECA coal utilization program and a description of the typical environmental impacts expected to result from prohibiting powerplants and major fuel burning installations from burning natural gas or petroleum products as their primary energy source.

(b) Any notice of intention to issue a prohibition order shall provide that interested persons shall be afforded an opportunity to make written and oral presentations of data, views and arguments, in acordance with the procedures set out in the notice, regarding the environmental impact of prohibiting the powerplant or major fuel burning installation identified in the notice of intention from burning natural gas or petroleum products as its primary energy source.

(c) Prior to the issuance of a Notice of Effectiveness to any powerplant or major fuel burning installation, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either (1) issuance of a declaration that a specific prohibition order or group of prohibition orders will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) preparation of an environmental impact statement covering significant site-specific impacts that are likely to result from a specific prohibition order or group of prohibition orders and that have not been adequately discussed in the programmatic environmental impact statement described in paragraph (a) of this section or in other official documents made publicly available during the FEA proceedings in connection with issuance of a prohibition order or by EPA in the course of its determinations with respect to notification or certification pursuant to section 119 of the Clean Air Act (42 U.S.C. 1857c-10), or otherwise made available to the public. If FEA prepares an environmental impact statement covering significant site-specific impacts from a prohibition order or group of such orders, the statement shall be prepared and published for comment in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) and Part 208 of this chapter and prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to § 303.173 of this chapter to comment on the contents of a draft environmental impact statement published pursuant to this paragraph.

PART 307—NEW POWERPLANTS AND NEW MAJOR FUEL BURNING INSTALLATIONS

10 CFR Part 307 is amended as follows:

70. The heading "Part 307 New Powerplants" is amended by inserting "and New Major Fuel Burning Installations" after the word "Powerplants" as set forth above.

71. The table of Contents to Part 307 is amended by deleting the words "307.6 Identification of powerplants in the early planning process." and inserting the words "307.6 Identification of powerplants and major fuel burning installations in the early planning process." in lieu thereof.

72. The citation of authority following the Table of Contents to Part 307 is revised to read as follows:

AUTHORITY: Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93-319) (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163; Federal Energy Administration Act of 1974 (Pub. L. 93-275) (15 U.S.C. 761 et seq.) as amended by Pub. L. 94-385; E. O. 11790 (39 FR 23185).

§ 307.1 [Amended]

73. Section 307.1 is amended as follows: In paragraph (a), insert the words "and major fuel burning installations" after the word "powerplants"; and in paragraph (b), insert "(15 U.S.C. 792)"

after "ESECA", and insert the words "or major fuel burning installation" after the word "powerplant".

74. Section 307.2 is amended by inserting the definitions of "Dispatching system", Major fuel burning installation", "Notice of Effectiveness", "Preliminary feasibility study", and "Process fuel use", and by revising the definitions set forth below to read as follows:

§ 307.2 Definitions.

"Action" means a construction order, or modification or rescission of such order, issued by FEA pursuant to section 2 (c) of ESECA (15 U.S.C. 792(c)).

* * * * *

"Combustion gas turbine" means an electric power generating unit that is a combination of a rotary engine driven by a gas under pressure that is created by the combustion of a fuel, usually natural gas or a petroleum product, with an electric power generator driven by such engine.

"Construction order" means a directive issued by FEA pursuant to section 2(c) of ESECA (15 U.S.C. 792(c)) that requires a powerplant or major fuel burning installation in the early planning process (other than a combustion gas turbine or combined cycle unit) to be designed and constructed to be capable of using coal as its primary energy source.

"Dispatching system" means (1) an integral group of powerplants within a geographical power pool for which there is centralized control of power generation, scheduling, and transmission; or (2) where there is no such integral power system, that powerplant or group of powerplants determined by FEA, in consultation with the Federal Power Commission, to constitute a power generation system sufficient in scope that FEA may make a reliability finding within the meaning of ESECA.

"Early planning process" (1) in the case of powerplants, commences 10 years prior to the planned commencement of the sale or exchange of electric power by a powerplant and terminates with commencement of the driving of the foundation piling, or the equivalent foundation structural event, in accordance with final drawings for the main boiler of the powerplant which were approved prior to commencement of such structural event; and (2) in the case of major fuel burning installations commences with completion of the preliminary feasibility study and terminates when the major fuel burning installation can no longer be ordered to be designed and constructed so as to be capable of burning coal as its primary energy source without suffering significant financial or operational detriment due to the impairment of prior commitments. Typically, such a termination point will coincide with the completion of the major fuel burning installation's foundation, or the equivalent foundation structural event, in accordance with final drawings for the major fuel burning installation which were approved prior to the commencement of such structural event.

* * * * *

"ESECA" means the Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93-319) (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163.

"FEA" means the Federal Energy Administration, including the Federal Energy Administrator as defined in section 14(a) of ESECA (15 U.S.C. 798(a)), or his delegate.

* * * * *

"Major fuel burning installation" means an installation or unit other than a powerplant that has or is a fossil-fuel fired boiler, burner, or other combustor of fuel or any combination thereof at a single site, and includes any person who owns, leases, operates or controls any such installation or unit.

* * * * *

"Notice of Effectiveness" means either a written statement issued by FEA to an existing powerplant or major fuel burning installation, subsequent to a certification or notification by EPA pursuant to section 119(d)(1)(B) of the Clean Air Act (42 U.S.C. 1857c-10(d)(1)(B)), advising such powerplant or installation of the date that a prohibition order applicable to it and the prohibitions contained therein become effective; or a written statement issued by FEA to a powerplant or major fuel burning installation advising such powerplant or installation of the date that a construction order applicable to it becomes effective.

* * * * *

"Preliminary feasibility study" means that analysis, formal or otherwise, which concludes that new, additional, or replacement capacity appears to be required and which precedes the managerial decision to initiate the design of a major fuel burning installation.

"Primary energy source" means, with respect to a powerplant or major fuel burning installation that utilizes a fossil fuel, the fuel that is or will be used for all purposes except the minimum amounts required for start-up, testing, flame stabilization and control, and process fuel use, and except, with regard to powerplants or major fuel burning installations issued prohibition orders that also are issued compliance date extensions by EPA in accordance with section 119 of the Clean Air Act (42 U.S.C. 1857c-10), such minimum amounts of fuel required to enable such powerplant or major fuel burning installation to comply with applicable primary standard conditions prescribed by EPA in accordance with CFR 55.04, *Provided*, Such minimum amounts of fuel may be used only when such primary standard conditions include the utilization of intermittent control systems and only during such temporary periods as use of such minimum amounts is absolutely necessary to meet the terms of the primary standard conditions relating to use of intermittent control systems.

"Proceeding" means the process and activity, and any part thereof, instituted by the FEA, either on its initiative or in response to an application submitted by a powerplant or major fuel burning installation, that may lead to an action by FEA.

"Process fuel use" means that fuel use for which alternate fuels are not technically feasible such as in applications requiring precise temperature controls and precise flame characteristics.

* * * * *

75. Section 307.3 is revised to read as follows:

§ 307.3 Use of coal as the primary energy source.

(a) Any powerplant or major fuel burning installation in the early planning process (other than a combustion gas turbine or combined cycle unit) may be required by FEA to be designed and constructed to be capable of using coal as its primary energy source, by means of the issuance of a construction order to such powerplant or major fuel burning installation, subject to the findings stated in paragraphs (b) and (c) of this section and after consideration of the factors stated in paragraph (d) of this section. FEA may at its discretion, make these findings and undertake the consideration of these factors for an individual powerplant or major fuel burning installation or for combinations of powerplants or major fuel burning installations at a single site. The requirement that a powerplant or major fuel burning installation be capable of using coal as its primary energy source shall be satisfied if the powerplant or major fuel burning installation is designed and constructed to use only coal as its primary energy source, or to use two or more fuels interchangeably, one of which is coal, as its primary energy source.

(b) A powerplant or major fuel burning installation shall not be required to be designed and constructed to be capable of using coal as its primary energy source unless FEA finds that such powerplant or major fuel burning installation is in the early planning process; and in the case of a major fuel burning installation, also finds that such installation meets the design firing rate requirement in § 307.6(b)(3).

(c) No powerplant or major fuel burning installation in the early planning process shall be required to be designed and constructed to be capable of using coal as its primary energy source if FEA finds that:

(1) In the case of a powerplant, the design and construction of a powerplant with the capability of using coal as its primary energy source is likely to result in an impairment of the reliability or adequacy of service to be provided by such powerplant. For purposes of this finding, whether there is likely to be an impairment of the "reliability or adequacy of service" shall be determined by an analysis of the loads of the electric power dispatching system of which the powerplant would be a part, and the net

dependable electrical capacity and energy resources of such system in relation to the powerplant's proposed electric power and energy output, and an evaluation of the effects of a delay, if any, in the commencement of the sale or exchange of electric power that might result if FEA required the powerplant to be designed and constructed to be capable of using coal as its primary energy source. ("Impairment" means a significant increase in the probability of loss of load on the dispatching system of which the powerplant would be part as a result of FEA requiring that such powerplant be designed and constructed to be capable of using coal as its primary energy source, which increase in probability of loss would be sufficient to result in a substantial hazard to commerce or the public health and safety.)

(2) An adequate and reliable supply of coal is not expected to be available. For purposes of this finding, the availability of an adequate and reliable supply of coal shall be determined by evaluating the type of coal that it is anticipated the powerplant or major fuel burning installation will be able to utilize and the location of such coal; evaluating the practicability of coal production, including the possibility that new mines will be opened before the powerplant commences the sale or exchange of electric power or before the start-up of the major fuel burning installation for the commercial or other purpose for which such installation is designed or intended to be used, and anticipated demand; and evaluating any State or local laws or policies limiting the extraction or the utilization of coal. The availability of coal transportation facilities shall also be considered.

(d) In making the evaluation whether a powerplant or major fuel burning installation in the early planning process should be required to be designed and constructed to be capable of using coal as its primary energy source, FEA shall consider, among other factors—

(1) The existence and effects of any contractual commitment for the construction of such powerplant or major fuel burning installation;

(2) The capability of the powerplant or major fuel burning installation to recover any increase in projected capital investment required as a result of a construction order (In evaluating "capability," FEA will include in its analysis the owner of the powerplant or major fuel burning installation.); and

(3) In the case of a powerplant, the relevant regulations or policies of any State or local agency with jurisdiction over the sale or exchange of electric power by powerplants.

(e) A powerplant or major fuel burning installation in the early planning process may be required to be designed and constructed to be capable of using coal as its primary energy source on the basis of FEA action taken on its initiative or at the conclusion of proceedings initiated by an application.

76. In § 307.4, paragraph (a) is revised to read as follows:

§ 307.4 Public participation.

(a) No powerplant or major fuel burning installation in the early planning process shall be issued a construction order requiring such powerplant or installation to be designed and constructed to be capable of using coal as its primary energy source unless prior to issuance of the order there has been published in the FEDERAL REGISTER a notice of FEA's intent to issue a construction order, and an opportunity has been given to interested persons to make written presentation of data, views and arguments regarding such action.

* * * * *

77. Section 307.5 is revised to read as follows:

§ 307.5 Effective date of construction orders.

A construction order issued to a powerplant or major fuel burning installation in the early planning process shall not be effective until FEA has taken the actions described in § 307.7 and has served such powerplant or installation a Notice of Effectiveness, as provided in §§ 303.10(b) and 303.47(b) of this chapter.

78. Section 3037.6 is revised to read as follows:

§ 307.6 Reporting Requirement for powerplants and major fuel burning installations.

(a) (1) An "Identification Report, Powerplant in Early Planning Process", FEA Form C-603-S-O, shall be filed by each powerplant (other than a combustion gas turbine or combined cycle unit) that is in the early planning process.

(2) Any powerplant that enters the early planning process at any time in a month shall file such FEA Form C-603-S-O with the FEA at the address provided in § 303.12 of this chapter, by the fifteenth day of the subsequent month.

(3) If any information submitted on FEA Form C-603-S-O changes, a revised form should be submitted to the FEA within 30 days of the change.

(b) (1) (i) Any major fuel burning installation which is in the reporting interval as defined in subparagraph (2) (iii) of this paragraph and which meets the design firing rate requirements as defined in subparagraph (3) of this paragraph shall file a "Major Fuel Burning Installation-Early Planning Process Identification Report", FEA Form C-607-S-O.

(ii) FEA Form C-607-S-O is divided into schedules A-1, A-2, and A-3. One Schedule A-1 must accompany each submission of one or more Schedule A-2's. One Schedule A-2 must be filed at the address provided in § 303.12 of this chapter for each major fuel burning installation which meets the requirements in paragraph (b)(1)(i) of this section. Schedule A-3 need only be filed by those major fuel burning installations which receive a written request to do so by the FEA.

(2) (i) A major fuel burning installation which was in the reporting interval December 27, 1976 and which met the design firing rate requirements on that date shall file FEA Form C-607-S-0 on or before the 30th day after the FEA publishes in the FEDERAL REGISTER notice of this reporting requirement or within 21 days after individual notification by FEA that a Report should be submitted, whichever date comes first.

(ii) A major fuel burning installation which enters the reporting interval after December 27, 1976 and which meets the design firing rate requirements as of the date it enters the reporting interval is required to file FEA Form C-607-S-0 on or before the fifteenth day of the month subsequent to the month in which it enters the reporting interval.

(iii) For the purposes of filing FEA Form C-607-S-0 the "reporting interval" is the period which commences upon completion of a preliminary feasibility study for the major fuel burning installation and ends upon completion of the foundation of the major fuel burning installation. If no preliminary feasibility study can be identified, the reporting interval commences at the earlier of (A) the formation of a contract, express or implied, for design of the combustor, or if such design is not to be performed in accordance with a contract, the date the managerial decision to initiate design work is made, or (B) the approval of construction funds for the major fuel burning installation by responsible officials.

(3) The "design firing rate requirements" referred to in § 307.3(b) and in this paragraph are met for each major fuel burning installation that (i) has a design firing rate of 100 million Btu's per hour or greater, or (ii) has a design firing rate of 50 million Btu's per hour or greater and has a design firing rate of 100 million Btu's per hour or greater when taken in the aggregate with other major fuel burning installations at the same location which have design firing rates of 50 million Btu's per hour or greater and were in the reporting interval as of December 27, 1976 or thereafter entered the reporting interval.

(4) A major fuel burning installation which enters the reporting interval but does not meet the design firing rate requirements on that date is required, if it subsequently meets the design firing rate requirements in accordance with subparagraph (3)(ii) (because additional major fuel burning installations at the same location enter the reporting interval), to file FEA Form C-607-S-O on or before the fifteenth day of the month subsequent to the month in which it meets such requirements.

(5) If any information submitted on FEA Form C-607-S-O Schedules A-1, A-2, A-3 changes, a revised Schedule(s) should be submitted to the FEA within 30 days of the change.

79. Section 307.7 is amended as follows: In the first sentence of paragraph (a), insert "(42 U.S.C. 4332), and in accordance with Part 208 of this chapter" after "1969" and before the period; and paragraphs (b), (c) and (d) are revised to read as follows:

§ 307.7 Consideration of environmental impacts.

* * * * *

(b) A notice of intention to issue a construction order shall provide that interested persons shall be afforded an opportunity to make written presentation of data, views, and arguments, in accordance with the procedures set out in the notice, regarding the environmental impact of ordering a powerplant or major fuel burning installation in the early planning process to be designed and constructed so as to be capable of using coal as its primary energy source.

(c) Prior to the issuance of a Notice of Effectiveness to any powerplant or major fuel burning installation, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result either in (1) issuance of a declaration that a specific construction order or group of construction orders will not, if made effective by a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) preparation of an environmental impact statement covering significant site-specific impacts that are likely to result from a specific construction order or group of construction orders and that have not been adequately discussed in the programmatic environmental impact statement described in paragraph (a) of this section, or in other official documents made publicly available during the FEA proceedings in connection with issuance of a construction order, or otherwise made available to the public. If FEA prepares an environmental impact statement covering significant site-specific impacts from a construction order or group of such orders, the statement shall be prepared and published for comment in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) and Part 208 of this chapter and prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to § 303.173 to comment on the contents of a draft environmental impact statement published pursuant to this paragraph.

(d) Any construction order that has been issued to a powerplant or major fuel burning installation in the early planning process for which FEA has prepared a site-specific environmental impact statement, pursuant to paragraph (c) of this section, may be modified or rescinded by FEA on its initiative, based upon the information contained in such statement, prior to issuance of a Notice of Effectiveness.

PART 309—ALLOCATION OF COAL

10 CFR Part 309 is amended as follows:

80. The Table of Contents to Part 309 is amended by inserting the words "309.5 Procedures." in the appropriate sequence.

81. The citation of authority following the Table of Contents to Part 309 is revised to read as follows:

AUTHORITY: Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93-319) (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163; Federal Energy Administration Act of 1974 (Pub. L. 93-275) (15 U.S.C. 761 et seq.), as amended by Pub. L. 94-385; E.O. 11790 (39 FR 23185).

82. Section 309.1 is revised to read as follows:

§ 309.1 Scope.

(a) *Applicability.* This part applies to—

(1) Any powerplant or major fuel burning installation that has been issued a prohibition order;

(2) Any person designated by the Administrator of EPA as one upon whom fuel exchange requirements should be imposed, as provided in section 119(j) of the Clean Air Act (42 U.S.C. 1857-10 (j)), to avoid or minimize the adverse impact on public health and welfare of (i) the conversion by any fuel burning source to the burning of coal as its primary energy source, as described in section 119(c) of the Clean Air Act (42 U.S.C. 1857c-10(c)), (ii) an allocation of coal under section 2(d) of ESECA (15 U.S.C. 792(d)), or (iii) an allocation of petroleum products under the authority of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 751 et seq.), as amended;

(3) Any ultimate coal consumer located in an area of the United States that is designated by the Administrator of EPA as an area that requires that available low-sulfur fuel be distributed to it, to the maximum extent practicable, on a priority basis to avoid or minimize adverse impact on public health, as provided in section 7 of ESECA (15 U.S.C. 793); and

(4) Any supplier (or other person) that provides, or is capable of providing, coal, other than quantities of coal that comprise an ultimate coal consumer's on-site coal inventory, to any person, including itself, whether by sale, exchange or otherwise.

(b) *Purpose.* This part, together with Part 303 of this chapter, establishes the methods and procedures by which FEA will exercise its powers under section 2 (d) of ESECA (15 U.S.C. 792(d)) to allocate coal to certain powerplants and major fuel burning installations and to other persons to the extent necessary to carry out the purposes of ESECA.

83. Section 309.2 is amended by adding the definition of "Process fuel use", and by revising the definitions set forth below to read as follows:

§ 309.2 Definitions.

* * * * *

"Action" means a supply order, or modification or rescission of such order, issued by FEA pursuant to section 2(d) of ESECA (15 U.S.C. 792(d)).

"Air pollution requirement" means any emission limitation, schedule or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation, including the Clean Air Act (except for any requirement prescribed under subsections (c) or (d) of section 119, section 110(a)(2)(F)(v), or section 303 of such Act (42 U.S.C. 1857c-10, 1857c-5(a)(2)(F)(v) and 1857h-1, respectively)), and which limits stationary source emissions resulting from combustion of fuels (including a prohibition on, or specification of, the use of any fuel of any type, grade, or pollution characteristic).

* * * * *

"Compliance date extension" means an extension issued by the Administrator of EPA in accordance with section 119(c) of the Clean Air Act (42 U.S.C. 1857c-10 (c)) as a result of which a powerplant or major fuel burning installation shall not, until January 1, 1979, be prohibited, by reason of the application of any air pollution requirement, from burning coal which is available to such source, except as otherwise provided in section 119(d)(3) of that Act (42 U.S.C. 1857c-10(d)(3)).

* * * * *

"ESECA" means the Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93-319) (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163.

"FEA" means the Federal Energy Administration, including the Federal Energy Administrator as defined in section 14(a) of ESECA (15 U.S.C. 793(a)), or his delegate.

* * * * *

"Notice of effectiveness" means either a written statement issued by FEA to an existing powerplant or major fuel burning installation, subsequent to a certification or notification by EPA pursuant to section 119(d)(1)(B) of the Clean Air Act (42 U.S.C. 1857c-10(d)(1)(B)), advising such powerplant or installation of the date that a prohibition order applicable to it and the prohibitions contained therein become effective; or a written statement issued by FEA to a powerplant or major fuel burning installation advising such powerplant or installation of the date that a construction order applicable to it becomes effective.

* * * * *

"Primary energy source" means, with respect to a powerplant or major fuel burning installation that utilizes a fossil-fuel, the fuel that is or will be used for all purposes except for the minimum amounts required for startup, testing, flame stabilization and control, and process fuel use; and except, with regard to powerplants or major fuel burning installations issued prohibition orders that also are issued compliance date extensions by EPA in accordance with section 119 of the Clean Air Act (42 U.S.C. 1857c-10), for such minimum amounts of fuel required to enable such powerplant or major fuel burning installation to comply with applicable primary standard conditions prescribed by EPA in accordance with 40 CFR 55.04, *Provided,* Such minimum amounts of fuel may be used only when such primary standard conditions include the utilization of intermittent control systems and only during such temporary periods as use of such minimum amounts is absolutely necessary to meet the terms of the primary standard conditions relating to use of intermittent control systems.

"Proceeding" means the process and activity, and any part thereof, instituted by the FEA either on its initiative, or in response to the designation by the Administrator of EPA of persons upon whom a fuel exchange requirement is to be imposed, or in response to an application submitted by a powerplant or major fuel burning installation that has been issued a prohibition order or by any ultimate coal consumer located in an area of the United States that has been designated by the Administrator of EPA as an area that requires, to the maximum extent practicable, that available low sulfur fuel be distributed to it on a priority basis to avoid or minimize adverse impact on public health, that may lead to an action by the FEA or by the Administrator of EPA with respect to such ultimate consumer.

"Process fuel use" means that fuel use for which alternate fuels are not technically feasible such as in applications requiring precise temperature controls and precise flame characteristics.

"Prohibition order" means a directive issued by FEA pursuant to sections 2 (a) and (b) of ESECA (15 U.S.C. 792(a), (b)) that prohibits a powerplant or major fuel burning installation from burning natural gas or petroleum products as its primary energy source.

* * * * *

"Stationary source fuel or emission limitation" means any emission limitation, schedule or timetable of compliance, or other requirement, which is prescribed under the Clean Air Act (other than sections 119, 111(b), 112 or 303 (42 U.S.C. 1857c-10, 1857c-6(b), 1857c-7 and 1857h-1, respectively)) or contained in an applicable implementation plan (other than a requirement imposed under authority described in section 110(a)(2)(F)(v) of such Act (42 U.S.C. 1857c-5(a)(2)(F)(v))), and which limits, or is designed to limit, stationary source emissions resulting from combustion of fuels, including a prohibition on, or specification of, the use of any fuel of any type, grade, or pollution characteristic.

* * * * *

"Supply order" means a directive issued by FEA pursuant to a rule promulgated pursuant to section 2(d) of ESECA (15 U.S.C. 792(d)) requiring that an authorized purchaser (including a powerplant, major fuel burning installation, an ultimate coal consumer, a supplier or other person) be provided coal by a designated supplier (or other person) in accordance with stated terms and conditions.

* * * * *

84. Section 309.3 is amended as follows: The first sentence of paragraph (a)(1) is revised; the first two sentences of paragraph (b) are revised; in the first sentence of paragraph (c), the words "of coal", which follows the term "ultimate coal consumer", are deleted, and "1978" is deleted and "1984" is inserted in lieu thereof; paragraph (c)(1) is revised; in paragraph (c)(2), the phrase "ultimate consumers of coal" is deleted and the term "ultimate coal consumers" is inserted in lieu thereof; in the first sentence of paragraph (d)(2), the word "of" is inserted after the word "issuance"; and paragraph (d)(3) is revised.

§ 309.3 Method of Allocation.

(a)(1) Subject to subparagraph (2) of this paragraph, a powerplant or major fuel burning installation that has been issued a prohibition order may be provided specified quantities of coal, upon application or at FEA's initiative, during any specified period prior to December 31, 1984 from a specified supplier (or other person) by means of the issuance of a supply order, provided that such allocation of coal is feasible. * * *

* * * * *

(b) Any person designated by the Administrator of EPA as one upon whom a fuel exchange requirement should be imposed to avoid or minimize the adverse impact on public health and welfare of the conversion by any fuel burning stationary source to the burning of coal as its primary energy source, as described in section 119(c) of the Clean Air Act (42 U.S.C. 1857c-10), or of an allocation of coal or petroleum products, shall be provided, by exchange, specified quantities of coal during any period prior to December 31, 1984 from a specified supplier (or other person) by means of the issuance of a supply order to such supplier (or other person) unless FEA determines (after consultation with the Administrator of EPA) that the costs or consumption of fuel resulting from requiring such exchange will be excessive.

For purposes of this paragraph, the determination whether the costs or consumption of fuel resulting from such fuel exchange will be excessive shall include an analysis, with respect to each person upon whom the fuel exchange requirement is to be imposed, * * *

* * * * *

(c) * * *

(1) The type of coal that is required to satisfy the needs of ultimate coal consumers within the designated area, the availability of such coal and the capability of a supplier (or other person) to meet the demand resulting from the imposition of such requirement, the means and availability of transportation of such coal to ultimate coal consumers located within the designated area;

* * * * *

(d) * * *

(3) A supply order that directs a supplier (or other person) to provide coal to an ultimate coal consumer located in an area of the United States designated by the Administrator of EPA as an area requiring, to the maximum extent practicable, available low sulfur fuel to avoid or minimize adverse impact on public health and welfare may require that existing or prospective coal supply contracts between the supplier (or other person) and an ultimate coal consumer located in such area be given priority over the supplier's (or other person's) other existing or prospective coal suply contracts.

§ 309.4 [Amended]

85. In § 309.4, the first sentence is amended by deleting "1978" and inserting "1984" in lieu thereof.

[FR Doc.77-8362 Filed 3-16-77;3:25 pm]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 107]

SMALL BUSINESS INVESTMENT COMPANIES

Notice of Proposed Rulemaking

AGENCY: Small Business Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed amendment to § 107.901 of the SBIC Regulations (authorizing a licensee to assume temporary control over a portfolio Small Concern in order to protect its investment) would bring assumption of control pursuant to representation on the Board of Directors into line with § 107.901(b)(1), deeming control to exist where licensee owns or controls as much as 50 percent of the voting securities. Present § 107.901(a) prohibits SBIC assumption of control "pursuant to management agreements, voting trusts, *majority* representation on the Board of Directors, or otherwise," unless necessary to protect its investment and subject to filing a divestiture plan. [Emphasis supplied] The proposed deletion of the word, "majority", and insertion into § 107.901(b) of an express provision that equal representation on the Board of Directors constitutes presumptive control, will make it clear that a control divestiture plan must be filed where a licensee has equal representation on the Board, even in the absence of other factors indicating control.

DATES: Comments must be received on or before April 20, 1977, in triplicate, by the Associate Administrator for Finance and Investment, Small Business Administration, Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

Peter F. McNeish, Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

Notice is hereby given that pursuant to the authority contained in section 308 of the Small Business Investment Act of 1958, as amended, 15 U.S.C. 661, et seq., it is proposed to amend, as set forth below, § 107.901 (a) and (b) of Part 107, Chapter I, Title 13 of the Code of Federal Regulations.

Section 107.901 (a) and (b) would be revised to read as follows:

§ 107.901 Control of small concerns.

(a) *General.* The Act does not contemplate that Licensees shall operate business enterprises or function as holding companies exercising Control over such enterprises. Accordingly, neither a Licensee nor a Licensee and its Associates,

nor two or more Licensees may, except as hereinafter set forth, assume Control over a Small Concern pursuant to management agreements, voting trusts, representation on the Board of Directors, or otherwise.

(b) *Presumption of Control.* Control over a Small Concern will be presumed to exist whenever a Licensee or a Licensee and its Associates, or two or more Licensees:

(1) Own or Control, directly or indirectly, fifty percent or more of the outstanding voting securities, if held by less than fifty shareholders; or

(2) Own or Control, directly or indirectly, more than twenty-five percent of the outstanding voting securities or a block of twenty or more percent which is as large as or larger than the largest other outstanding block of such securities, if held by fifty or more shareholders. Potential ownership of voting securities through options or conversion privileges shall not be considered in determining whether a presumption of Control exists.

(3) Designate or Control, directly or indirectly, fifty percent or more of the voting positions on the Board of Directors of the Small Concern. Any presumption of Control may be rebutted by evidence satisfactory to SBA.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: March 11, 1977.

ROGER H. JONES,
Acting Administrator.

[FR Doc.77-8305 Filed 3-18-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 77-NE-4]

TRANSITION AREA

Designation of State of Vermont Transition Area

AGENCY: Federal Aviation Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations [14 CFR § 71.181] to designate the entire State of Vermont a 1200-foot transition area. This would consolidate all existing 1200-foot transition areas in the state and would convert all the remaining uncontrolled airspace in the state (about 620 square miles) to controlled airspace, to be known as the "State of Vermont Transition Area."[1]

DATES: Comments must be received on or before April 19, 1977. [Proopsed effective date: July 13, 1977]

ADDRESSES: Send comments on the proposals to: Federal Aviation Administration, Office of the Regional Counsel, ANE-7, Attn: Rules Docket Clerk, Docket No. 77-NE-4, 12 New England Executive Park, Burlington, Massachusetts 01803.

[1] Map filed as part of original.

FOR FURTHER INFORMATION CONTACT:

Richard G. Carlson, Operations Procedures and Airspace Branch, ANE-536, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, (617-273-7285).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Regional Counsel, New England Region, Attn: Rules Docket Clerk, Docket No. 77-NE-4, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before April 19, 1977, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rule making will be filed in the public regulatory docket.

Persons desiring copies of this NPRM should contact: Rules Docket Clerk, Office of the Regional Counsel, ANE-7, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

This proposal consolidates existing transition areas presently listed in Part 71 of the Federal Aviation Regulations under many geographic names into a single 1200-foot transition area for the entire State of Vermont and converts the remaining uncontrolled airspace to a 1200-foot transition area.

Presently, about 93.5 percent of the airspace in Vermont is designated as 1200-foot transition areas under various local geographic names. All of this airspace is contiguous. The consolidation of this airspace into a single 1200-foot transition area will simplify charting and navigation.

In addition to the consolidation of existing transition areas, the proposal would designate approximately 260 square miles of uncontrolled airspace in the vicinity of Lyndonville, Vermont, as a 1200-foot transition area. The designation of this area as a 1200-foot transition area is necessary to provide controlled airspace for aircraft executing a new NDB Precision Instrument Approach Procedure to the Caledonia County Airport, Lyndonville, Vermont.

The proposal would also designate the remaining uncontrolled airspace in Vermont (approximately 360 square miles) located in Northern Vermont from Groveton, Vermont, to the Canadian border, as a 1200-foot transition area. While only a small portion of this airspace is actually required for the NDB instrument approach to the Caledonia County Airport, the agency has determined that the remainder of this area should also be designated a 1200-foot transition area for the following reasons:

1. The recently commissioned long range radar system located at St. Albans, Vermont, now provides radar coverage to the northern portion of the State of Vermont. The advantages of radar service to users can only be realized through designating this uncontrolled airspace to controlled airspace.

2. Winnipesaukee Airways, a Part 135 carrier, operates under a certified off-airway route between Berlin, New Hampshire, and Newport, Vermont. Approximately eighty percent of this route traverses uncontrolled airspace. This action will provide controlled airspace with radar service capability.

3. Chart depiction of this revised 700/1200-foot controlled airspace will enhance pilot capability in distinguishing boundaries of designated airspace.

§ 71.181 [Amended]

Accordingly, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR § 71.181) as follows:

1. By designating a new transition area to read:

STATE OF VERMONT—1200-FOOT TRANSITION AREA

That airspace extending upward from 1200 feet above the surface within the territorial boundaries of the State of Vermont.

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Burlington, Massachusetts, on March 3, 1977.

QUENTIN S. TAYLOR,
Director, New England Region.

[FR Doc.77-8293 Filed 3-18-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-WA-5]

VOR FEDERAL AIRWAYS

Proposed Designation

At the request of the Canadian Department of Transport, the Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the United States segments of V-348 between Thunder Bay, Ont.; Sault Ste. Marie, Mich., and Sudbury, Ont.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications

should identify the airspace docket number and be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon, Des Plaines, Ill. 60018. All communications received April 20, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

Requests for copies of this notice of proposed rulemaking should be addressed to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591.

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

The proposed amendment would designate the United States segments of V-348 which is proposed to extend from Thunder Bay to Sault Ste. Marie via the INT of the Thunder Bay 102° T (101° M) and the Sault Ste. Marie 316° T (320° M) radials. Also, from Sault Ste. Marie to Sudbury via the INT of the Sault Ste. Marie 066° T (070° M) and the Sudbury 282° T (290° M) radials. Additionally, on request reporting points are proposed to be established at the INTs of the Newberry, Mich., 028° T (030° M) radials with the Sioux Ste. Marie 300° T (304° M) and 316° T (320° M) radials.[1] The proposed route would help to expedite the flow of en route traffic in this area.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on March 14, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-8294 Filed 3-18-77;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 288 and 399]

[Economic Regulations Docket No. 29387; Dated: March 8, 1977; EDR-321 PSDR-46]

EXEMPTION OF AIR CARRIERS FOR MILITARY TRANSPORTATION; STATEMENTS OF GENERAL POLICY

Minimum Rates

Notice is hereby given that the Civil Aeronautics Board proposes to amend Parts 288 and 399 of its regulations (14 CFR Parts 288 and 399) concerned with air transportation services performed for the Department of Defense (DOD) and procured by the Military Airlift Command (MAC). The purpose of the proposed amendments is explained in the attached Explanatory Statement, and the proposed amendments are set forth in the Proposed Rule. The amendments are proposed under authority of sections 204, 403 and 416 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 758 and 771, as amended; 49 U.S.C. 1324, 1373 and 1386).

Interested persons may participate in the proposed rulemaking through submission of twenty (20) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material in communications received on or before April 7, 1977, and reply comments received on or before April 22, 1977, will be considered by the Board before taking final action on the proposed rules. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 711 Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C. upon receipt thereof.

A list of all persons filing comments will be prepared by the Docket Section and sent to the persons named thereon. Those persons filing responsive comments should serve any person whose comment is dealt with in their responsive comment.

Those persons planning to file comments and/or responsive comments who wish to be served with the comments filed by others, and are willing to undertake service of their own comments on others, shall file with the Docket Section at the above address by March 18, 1977, a request to be placed on the service list in Docket No. 29387. The service list will be prepared by the Docket Section and sent to the persons named thereon. The persons on the service list are to serve each other with their comments and/or responsive comments at the time of filing, and are to include appropriate proof of service (Rule 8(e), 14 CFR 302.8(e)) with each filing.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

EXPLANATORY STATEMENT

Part 288 of the Board's Economic Regulations (14 CFR Part 288) exempts, subject to conditions, air carriers who have contractual commitments to perform air transportation services for the Department of Defense (DOD) from the requirements of section 403 of the Federal Aviation Act of 1958, and certain of the Board's Economic Regulations. A principal condition of the exemption is that the compensation for such services not be less than set forth in the Part. The services for which the exemption is provided consist of "Category B" services, which are mainly international planeload passenger and cargo charters; "Logair" services, which are cargo charters between Air Force bases within the United States; "Quicktrans" services, which are domestic cargo charters between naval installations; and "Category A" services which are individually ticketed or waybilled passenger and cargo services on scheduled flights pursuant to contract. Section 399.16 of Part 399 of the Board's Statements of General Policy (14 CFR 399) sets forth the minimum per passenger mile rate that the Board considers fair and reasonable for the transportation of "Category Z" military traffic, which consists of individually ticketed passengers carried on scheduled flights pursuant to tariffs filed by the carriers. This investigation is concerned with the rates for Category B and A services.[2]

By ER-962, adopted July 27, 1976, the Board established interim final rates for "Categories B and A" foreign and overseas air transportation services pending completion of a full-scale MAC rate review, and the establishment of prospective final rates. In ER-981, effective January 11, 1977, the Board further amended Part 288 by adding a surcharge to the interim final rates related to increases in the price of fuels consumed in performance of MAC services.[3]

With this Notice of Proposed Rulemaking, the Board is now proposing revised minimum rates applicable to "Categories A, B & Z" foreign and overseas air transportation services to be effective prospectively from the date the revised final rates are adopted.[4]

The techniques used in this proceeding are essentially the same as those used in previous comprehensive reviews of MAC rates. The nine carriers now performing fixed-buy MAC charter operations have furnished projections of the costs that each expects to incur for performance of these services during fiscal year 1977, based on experienced results during fiscal year 1976. No conferences were held with the carriers or DOD as in past rate reviews, in the interest of expediting this proceeding. However, the Board's staff did consult with carrier representatives with regard to their forecasts and as a result the carriers furnished additional and clarifying support data.

The DOD has also reviewed the carrier data and furnished its own analyses and views on various aspects of the carrier's operational and cost projections. The Board has reviewed the materials submitted by the carriers and the DOD. Based upon an analysis of all information and comments submitted, the Board has tentatively determined that certain adjustments in the cost forecasts are appropriate. These adjustments are consistent with policies developed in prior reviews, the ratemaking policies announced in various phases of the Domes-

[1] Map filed as part of the original document.

[2] Under section 399.16, the Category Z minimum rate is set at the one way Category B rate.

[3] This superseded ER-972, dated October 1, 1976.

[4] For the final rule amendment, the proposed rates will be updated to reflect latest available data.

tic Passenger-Fare Investigation (Docket 21866), and Part 399 of the Board's Statements of General Policy. They are detailed in the appendices hereto, which set forth each carrier's forecast, the adjustments thereto, and the resultant recognized costs. The more significant adjustments and departures from past costing and ratemaking practices are explained in the subsequent sections of this statement.

MINIMUM RATES FOR LARGE TURBO-JET AIRCRAFT

AIRCRAFT UTILIZATION

A review of the hours of daily aircraft utilization forecast by the carriers, compared to base-period experience both in MAC and commercial operations, indicates that in view of the decline in the total amount of MAC procurement, the carriers' forecasts appear to be reasonable. The projections range from 7.5 to 12.5 hours of average daily utilization depending upon operational characteristics and experience.

DEPRECIATION AND LEASED AIRCRAFT

The rates proposed are consistent with the depreciation guidelines contained in § 399.42 of the Board's Policy Statements which prescribes a 14-year service life and two-percent residual value for turbo-fan aircraft. We are adhering to the historical MAC ratemaking policy of recognizing flight equipment investment as at the mid-point of the forecast year, i.e., March 31, 1977.

Leased aircraft costs have been included in conformance with § 399.43 of the Board's Policy Statements, which sets forth the Board's treatment of leased aircraft for ratemaking purposes. In general, the section provides that for ratemaking purposes the Board will recognize only actual rental expenses. However, in unusual circumstances, a profit element may be added to reflect the additional risks of operations with leased aircraft that are not compensated for by the return on investment. In the present review, in addition to recognizing actual rental expenses, we have included a 4.5-percent return element on leased aircraft in those cases where the ratio of the value of the carrier's leased aircraft to the total value of the carrier's fleet assigned to MAC international operations exceeds 32.85 percent.[4] The regulation provides that where special or unusual circumstances are found to exist, a profit element may be added where the investment represented by a carrier's leased aircraft in relation to its total aircraft is significantly in excess of the aggregate of the industry, in prior proceedings defined as the average for the domestic trunk and the local service carriers. In the last MAC rate review, 40 percent was used as the base ratio of leased to total fleet necessary to qualify for a profit element. This percentage was based on considerations pertinent to that proceeding and was not intended to be the standard. In this proceeding, we have reevaluated this ad hoc approach, and determined that both the MAC carriers and DOD will benefit if a definitive standard is adopted for the application of the leased aircraft added risk profit-element in MAC proceedings. It is our tentative belief that a profit element should be added in those instances where the ratio of the carrier's leased to total fleet is 10 percentage points above the average for the domestic trunks and local service carriers. As it is not possible to devise any objective measure of the amount of leased aircraft that a carrier must have before its leaseholds qualify for a profit element, this 10 percentage point standard reflects our best judgment as to when the profit element exception should apply.[5] In one instance, however (Capitol DC-8-63), the projected rental expense plus return on the leased aircraft would exceed depreciation plus return on investment computed as if the aircraft had been owned by the carrier. Therefore, in accord with Board policy, the amount recognized was adjusted downward to conform with the depreciation and return which would have been allowed if the aircraft had been owned. In addition, recognized rental expense is reflected in the determination of burden ratios, general burden, and the cash operating expenses allowed as working capital.[6]

FUEL COSTS

Projected fuel costs are based on the average price as reported by each carrier on Schedule P-12(a), C.A.B. Form 41, for October 1976 and the fuel burn rate experienced in the base period. It is our intention to revise the rates finally adopted to reflect the latest available fuel prices. In addition, we will continue to monitor this element of cost and take appropriate ad hoc regulatory fuel surcharge action, where warranted, as provided in the Board's Notice on Final Action, December 22, 1976.

MISCELLANEOUS COST ADJUSTMENTS

Consistent with the Board's long-standing ratemaking practice, we have eliminated anticipatory cost increases from the carriers' forecasts, whether based on asserted cost trends, estimates, or anticipated price or wage changes. However, adequately supported price or wage increases actually being incurred in fiscal 1977 have been annualized and included in the proposed rate determinations.

RETURN AND TAXES

Consistent with the policy established in ER-733, May 11, 1972, we are providing a return rate of 10.5 percent on investment recognized for foreign and overseas MAC services.[7]

Provision for income taxes has been made at the federal tax rate of 48 percent, after interest expense deductions. Some carriers have requested an allowance for state income taxes. However, as in past MAC rate findings, we have not made a separate allowance for such taxes since the constructive allowance computed at the federal rate has not been shown to be insufficient to provide adequate recognition of state and federal income taxes actually paid.[8]

In the case of Airlift and Overseas National as a result of excessive rentals and the age of certain equipment, the carriers' return and tax as adjusted was computed at less than 20-cents per mile. In accordance with the policy and procedure established by the Board previously, we have increased the return and tax so that the carrier receives a minimum of 20 cents per mile as an operating margin.[9]

INCREASE IN PASSENGER SEATS

In a report to the Congress by the Comptroller General of the United States, dated October 5, 1976, it was concluded that the adoption of commercial charter seat spacing on military charter flights would increase aircraft capacity, reduce the number of flights required; and, thereby, reduce the carriers' costs and conserve jet fuel without unreasonably reducing passenger comfort. To this end, we propose to increase the passenger allowable cabin load (ACL) for standard jets (B-707-300B/C, DC-8F, DC-8-62) from 165 to 180 seats and the stretched jets (DC-8F-61, 63) from 219 to 250 seats. Our review of commercial charter tariff configurations reveals that most, if not all, of the aircraft types used in MAC services are already configured for the proposed standard ACL's. This review also indicates that our present standard seating for wide-bodied equipment appears to be reasonable and should not be changed at this time.

DETERMINATION OF RATE

The attached table shows total economic costs (Appendices A & B) proposed to be recognized for each carrier and air craft for round-trip passenger and cargo charters:

[4] Ten percentage points above the 22.85 percent average for the domestic trunks and local service carriers, see Appendix J. (Appendices A-J filed as part of the original document.)

[5] See Appendix J. In accordance with section 399.43, the return of 4.5 percent is six percentage points less than the standard 10.5 percent rate of return for MAC services. This return is applied to the valuation of leased aircraft in excess of 22.85 percent of total owned and leased, the industry average.

[6] As in prior MAC rate reviews, general burden expense has been computed on the basis of each carrier's experienced ratio of general overhead expenses to operating expenses exclusive of depreciation and amortization of deferred preoperating costs, and the working capital allowance is equal to one month's cash operating expenses.

[7] And as subsequently provided in the prior rate review, ER-836, January 17, 1975.

[8] See EDR-278, July 25, 1974 and as finally adopted in ER-836, January 17, 1975.

[9] ER-959 adopted July 15, 1976.

Total economic cost for round-trip passenger and cargo charters

	Cents per passenger-mile				Cents per cargo ton-mile			
	Standard		Stretched		Standard		Stretched	
	Atlantic	Pacific	Atlantic	Pacific	Atlantic	Pacific	Atlantic	Pacific
Airlift:								
DC-8-54					12.685	12.799		
DC-8-63			2.318				12.208	10.632
Capitol: DC-8-63			2.418					
Northwest: B-707		3.283				14.411		
Overseas:								
DC-8-61			2.635	2.244				
DC-8-63			2.803	2.561				
Pan American: B-707	3.954	3.458			18.058	16.154		
Seaboard: DC-8-61/63			2.721				11.693	
The Flying Tiger: DC-8-63			2.704	2.704			12.560	12.560
Trans-International: DC-8-61/63			2.598	2.598			12.151	12.151
World: DC-8-63			2.720	2.720			12.109	12.109

NOTE.—Where Atlantic and Pacific rates are the same, the carrier only forecast system rates.

An attempt was made in this review to ascertain whether there was a need for separate geographical sector rates. After reviewing the data furnished by the carriers, we are of the opinion that there is no need for separate sector rates at this time and are again proposing uniform worldwide rates.

In our ongoing review of the adequacy of MAC rates, we have noted the significant differentiation in the total economic unit costs and resulting net profits as between passenger services performed with the standard jets versus the stretched jets. Prior to the increase in the rates established by ER–962, for the year ended March 31, 1976, the carriers operating standard jets reported a negative return of 20.11 percent whereas the stretched jet operators earned a return of 4.36 percent.[10] In the past, we have consolidated the overall standard and stretched jet costs to obtain a single weighted rate in line with the Board's policy of maintaining rate parity between the different jet aircraft so as not to create a competitive imbalance among contractors and equipment. However, with rising costs and the reporting of increased losses by the standard jet operators for their MAC operations we believe that remedial action is warranted at this time. Therefore, in order to insure that the operators of the older and more costly (on a unit basis) standard jets are reasonably compensated for their services to the Department of Defense, we are proposing separate passenger rates for both types of jets. Although separate rates will result in higher than average rates for the standard jets and lower than average rates for the stretched jets, on an overall basis this should not increase expenditures for the Department of Defense assuming its contract awards maintain the current equipment mix.[11] It should also be noted that for commercial charters, the carriers presently file separate tariffs for services with standard and stretched jets with the standard jets at a higher rate. Yet, there is no apparent adverse impact on the demand for charter services with standard jet equipment. In fact, the resulting differential of approximately 33 percent between the proposed rates for standard and stretched jets in passenger service is in line with the 40-percent difference in the present commercial charter tariff rates for these two types of equipment. The Board realizes that the DOD may elect to shift its MAC procurement to the more cost-efficient and lower rate stretched jet services. If the DOD chooses this course of action, the Government would be the beneficiary of lower costs and there would be further fuel savings in as much as fewer flights would be required for the movement of DOD personnel on the higher density equipment. On the other hand, DOD has expressed a need for the standard aircraft in its transport and reserve fleet programs, because the lower seating capacity affords MAC increased dispatch flexibility; therefore, we believe MAC should, as the commercial charterers do, be willing to compensate the standard jet carriers for this obvious added value.

To determine each carrier's relative participation in the MAC services, we have weighted these unit costs by the current year (1977) MAC contract fixed-buy passenger-miles and cargo ton-miles. This gives effect to the fixed-buy contracts at the increased ACL's being proposed for passenger service. In our judgment, the weighted average costs produced take into consideration, on an equitable basis, the range of individual carrier costs. As set out in Appendix E, the weighted unit costs for regular or standard jet aircraft are 3.5355 cents per passenger-mile for Category B round-trip services and 2.6524 cents per passenger-mile for the same services with stretched jet equipment. Similarly, the weighted unit costs for both aircraft types are 12.0909 cents per cargo ton-mile for Category B round-trip services.

The mileage absorption factors reflected in the rate determination which recognize the difference between revenue miles flown used in costing and the standard mileages used for payment purposes, are derived from the experience data furnished by the carriers. We have computed the average relationship of operating miles and pay miles as shown in Appendix D, and applied this ratio to the adjusted costs, by classes of aircraft as shown in Appendix F.

As pointed out in Appendix D, regular or standard jets in passenger service were operated on an average of 0.33 percent, and stretched jets an average of 0.83 percent, greater distances than represented by the MAC pay mileages. In cargo services, the standard jets operated at average mileages 1.28 percent less than represented by the MAC pay mileages, while the stretched jets operated at an average of 1.21 percent greater distances than represented by the MAC pay mileages.

As set forth in Appendix F, the proposed round-trip rates are 3.547 cents per passenger-mile for standard jets, 2.675 cents per passenger-mile for the stretched jets and 12.237 cents per cargo ton-mile. These rates are approximately 19.35 percent above the current rate for regular or standard jets, 5.81 percent decrease for stretched jets, and 1.97 percent below the current cargo rate, including the 1.95 percent fuel surcharge adopted by ER–981 based on November 1976 fuel prices. The changes in the unit rates for passengers are based on a comparison reflecting currently effective ACL's. While the costs for both jet equipment types in passenger service increased, the dual rate structure proposed herein, plus the variance in the percentage increases in the passenger ACL for the standard jet (9.09 percent) and the stretched jet (14.16 percent), accounts for the increase in standard jet rate and the decrease in the stretched jet rate. The decrease in the unit rate for cargo services is attributed to the FY 1977 fixed-buy cargo contracts which are solely with the all-cargo carriers operating the stretched jet equipment almost exclusively, which ton-mile costs are lower than for the standard jet equipment included in the current rate determination.

Proposed one-way rates have been derived by the same method employed in previous MAC rate reviews. Thus, they reflect the costs of return-empty backhauls, less the cost-savings inherent in the operation of such backhauls, after offset for experienced commercial revenue backhauls. Based on a review of data submitted by the carriers, cost savings of approximately eight percent are available for empty backhaul of passenger one-way trips, representing savings in passenger food and supplies, and in liability insurance, while an additional one percent can be saved for both passenger and cargo one-way trips in more direct mileage, fewer landings, loading and unloading, and planning costs. Based on reported data for the year ended June 30, 1976 (see Appendix G), the commercial backhaul factors are 6.59 percent for passenger trips and zero percent for cargo trips. The derivation of the one-way rates based on these factors is shown in Appendix H, and the resulting proposed minimum rates are 6.562 cents per passenger-mile for regular jets 4.948 cents for stretched jets for one-way

[10] See Appendix B, page 2. ER–962, July 27, 1976.

[11] The proposed dual rate structure applied to each aircraft type will produce the same overall revenues as a single average rate for all services.

passenger charters and 24.352 cents per ton-mile for one-way cargo charters. These rates represent an increase in the current passenger one-way rate, including the 1.95-percent fuel surcharge, of 26.04 percent for the standard jets, a reduction of 3.05 percent for the stretched jets and an increase in the cargo one-way rate of 29.63 percent.

The linehaul rates for convertible and mixed services are also determined as in previous rate reviews. Pan American, in its information response, did not include any rate proposals for convertible or mixed operations since it prefers to see these services, which it claims are disruptive and costly to the carriers, discontinued. Moreover, the carrier asserts that the $75 seat conversion rate is inadequate and claims that the number of man hours required for the conversion makes the rate paid plus the conversion charge insufficient to compensate for the costs and disruptions involved. However, with the proposed increase in standard seating for both the regular and stretched jets the conversion charge increases 9.09 percent for regular jets and 14.16 percent for stretched jets. Under this circumstance, we believe that the current conversion rate of $75 per seat is adequate.

MINIMUM RATES FOR CATEGORIES A AND Z AND WIDE-BODIED AIRCRAFT

Under the dual rate structure, we propose to amend the Category A and Z rates for passengers so that they are equal to the one-way Category B passenger rate for standard jets, the higher of the two. The proposed rates for services with wide-bodied aircraft are equated with those rates for stretched jet services.

MINIMUM RATES FOR SMALL TURBINE AIRCRAFT

Inasmuch as there is no fixed-buy for fiscal year 1977 for small turbine aircraft (B–727, L–382 and L–100–10/20/30), and we did not receive any forecasts from any of the carriers for small turbine aircraft; the present rates for these aircraft shall be considered adequate for the purpose of this review.

Amended rates effective

Aircraft type	Passenger rates in cents per passenger-mile		Cargo rates in cents per ton-mile		Convertible rates in cents [1]		Mixed passenger-cargo rates, per revenue plane-mile [1 2]	
	Round trip	One way	Round trip	One way	Passenger leg, per passenger-mile	Cargo leg, per ton-mile	Round trip	One way
Regular jets	3.547	6.562	12.237	24.352	3.547	14.166		
Passengers—pallets:								
189 and 0							$6.235	$11.812
128 and 3							5.827	10.961
115 and 4							5.637	10.749
88 and 6							5.648	10.555
101 and 5							5.423	10.323
63 and 7							5.129	10.005
54 and 8							5.044	9.705
0 and 12							4.467	8.859
DC-8-61/63F	2.675 [3]	4.918 [3]	12.237 [3]	24.352 [3]	2.675 [3]	14.166 [3]		
Passengers—pallets:								
230 and 0							6.633	12.370
182 and 5							6.204	11.983
74 and 12							5.857	11.377
54 and 13							5.760	11.261
0 and 18							5.207	10.038
B-727 Pacific Interisland [4]	4.457	8.512	22.772	43.516	4.457	27.326		
Passengers—pallets:								
105 and 0							4.679	8.923
61 and 2							4.444	8.611
50 and 3							4.356	8.529
46 and 4							4.254	8.429
0 and 7							4.099	8.157
B-727 all other [4]	5.037	9.602	25.463	50.671	5.037	30.554		
Passengers—pallets:								
105 and 0							5.279	10.032
61 and 2							4.937	9.630
50 and 3							4.914	9.579
46 and 4							4.869	9.542
0 and 7							4.653	9.120

[1] Conversion rates shall apply only for flights that are converted a minimum of 10 d in advance of performance of the service. Conversion charges for convertible flights or variable mixed flights shall be at the rate of $75 per seat changed on each segment. If a flight is converted with less than 10 d notice, the 1-way rates shall apply to each leg of the converted round trip.

[2] For the Coral Sea variable mixed operation the conversion charge of all be $667 per cargo pallet in lieu of a seat charge.

[3] Also applies to wide-bodied (B-747, DC-10, and L-1011) equipment.

[4] Shall also apply to the L-382/L-100-10/20/30 and CV-440 aircraft.

NOTE.—Contains fuel prices shown in ER-972, the final rate as adopted will include the latest fuel prices.

* * * * * * *

(d) For Category A transportation services on and after _____:
(1) Passengers, 6.562 cents per passenger-mile.
(2) Cargo, 24.352 cents per ton-mile.

* * * * * * *

2. Replace the table and the proviso in § 288.8 (minimum aircraft loads) with the following:

§ 288.8 Minimum aircraft loads.

* * * * * * *

Aircraft type	Number of passengers, all-passenger and convertible flights	All-cargo flights	Convertible flights
B-747	375	90.0	90.0
DC-10-40	380		
DC-10-30	333	75.0	75.0
L-1011	272		
B-707-320B/C	189	33.5	31.7
B-707-300 series	189		
B-707-138B	137		
B-707-100 series (other)	149		
DC-8F-61, 63	220	45.0	33.0
DC-8-62	189	33.2	
DC-8F	189	33.5	31.7
DC-8 (50 series)	189		
DC-8 (other)	189		
DC-9-30	85		
B-727	105	18.0	15.0
CV-990	105		
L-382		20.7	
L-100-10/20/30		20.7	

Provided, That for purpose of this section, compensation equal to the minimum rate applied to the load that actually can be accommodated shall be considered economic whenever a carrier is prevented from accommodating a load equal to the minimum specified above, for reasons other than adverse weather, off-loading by DOD, or the bulk of the cargo supplied by DOD, but in no event less than 90 percent of the above minimum loads. For purpose of this proviso, failure by the carrier to accommodate more than 12 loaded pallets on the B–707–320B/C and DC–8F aircraft irrespective of the total weight thereof, on the all-cargo segment of any convertible charter flight, due to the presence of galley equipment and/or crew facilities on the main deck of the aircraft for use on that convertible charter flight, is deemed to be due to the bulk of the cargo supplied by DOD.

PROPOSED RULES

PART 288—EXEMPTION OF AIR CARRIERS FOR MILITARY TRANSPORTATION

It is proposed to amend Part 288 of the Economic Regulations (14 CFR Part 288) as follows:

1. Delete § 288.7(a) (1) in its entirety and substitute the following, and revise (d) (1) and (d) (2).

§ 288.7 Reasonable level of compensation.

* * * * *

(a) For charter service in foreign and overseas transportation, in transportation between the 48 contiguous States, on the one hand, and Hawaii or Alaska, on the other hand, and in transportation within Alaska, other than specified in paragraph (c) of this section:

(1) Performed with turbine-powered aircraft.

PART 399—STATEMENTS OF GENERAL POLICY

4. Revise § 399.16(b) to read as follows:

§ 399.16 Military exemptions.

* * * * * *

(b) The minimum charges considered fair and reasonable for the transporta-

tion of Category Z individually ticketed passengers in foreign and overseas air transportation and in air transportation between the 48 contiguous States on the one hand, and Hawaii or Alaska, on the other hand, will be the same as the Category B one-way passenger rate per mile for the standard jet as set forth in § 288.7 of Part 288 of the Economic Regulations, applied to the shortest mileage between the commercial air carrier points as shown in the current IATA manual to compute point-to-point passenger fares.

NOTE.—Appendices A through J filed as part of the original document.

[FR Doc.77-7775 Filed 3-18-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 221]

FLATHEAD IRRIGATION PROJECT

Proposed Operation and Maintenance Rates

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 FR 13938, Friday, Oct. 6, 1967), and by virtue of the authority delegated to the Commissioner of Indian Affairs to the Area Director (10 BIAM-3; 34 FR 637, Thursday, Jan. 16, 1969), and by authority delegated to the Project Engineer and to the Superintendent by the Area Director June 11, 1969, Release 10-2, 10 BIAM 7.0, Sections 2.70-2.75.

Notice is hereby given that it is proposed to revise §§ 221.16 and 221.17 of Title 25, Code of Federal Regulations, dealing with the irrigable lands of the Flathead Indian Irrigation Project, Montana, that are not subject to the jurisdiction of the several irrigation districts. The purpose of the amendment is to establish the assessment rate for nondistrict lands of the Flathead Indian Irrigation Project for 1977 and thereafter until further notice.

It is the policy of the Department of the Interior, whenever practicable, to afford the public the opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions or objections with respect to the proposed amendment to the Project Engineer, Bureau of Indian Affairs, Flathead Indian Irrigation Project, St. Ignatius, Montana, 59865, on or before April 20, 1977.

Section 221.16 is revised to read as follows:

§ 221.16 Charges, Jocko Division.

(a) An annual minimum charge of $5.97 per acre, for the season of 1977 and thereafter until further notice, shall be made against all assessable irrigable land in the Jocko Division that is not included in an irrigation District organization, regardless of whether water is used.

(b) The minimum charge when paid shall be credited on the delivery of the pro rata per acre share of the available water up to one and one-half acre feet per acre for the entire assessable area of the farm unit, allotment or tract. Additional water, if available, will be delivered at the rate of three dollars and ninety-eight cents ($3.98) per acre foot or fraction thereof.

Section 221.17 is revised to read as follows:

§ 221.17 Charges, Mission Valley and Camas Division.

(a) (1) An annual minimum charge of $6.07 per acre, for the season of 1977 and thereafter until further notice, shall be made against all assessable irrigable land in the Mission Valley Division that is not included in an irrigation District organization regardless of whether water is used.

(2) The minimum charge when paid shall be credited on the delivery of pro rata per acre share of the available water up to one and one-tenth acre feet per acre for the entire assessable area of the farm unit, allotment or tract. Additional water, if available, will be delivered at the rate of four dollars and five cents ($4.05) per acre foot or fraction thereof.

(b) (1) An annual minimum charge of $7.24 per acre, for the Season of 1977 and thereafter until further notice, shall be made against all assessable irrigable land in the Camas Division that is not included in an irrigation District organization regardless of whether water is used.

(2) The minimum charge when paid shall be credited on the delivery of the pro rate per acre share of the available water up to one and one-half acre feet per acre for the entire assessable area of the farm unit, allotment or tract. Additional water, if available, will be delivered at the rate of four dollars and eighty-three cents ($4.83) per acre foot or fraction thereof.

GEORGE L. MOON,
Project Engineer.

[FR Doc.77-8190 Filed 3-17-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

GROUP-TERM LIFE INSURANCE

Withdrawal of Notice of Proposed Rulemaking

Purpose. The purpose of this document is to withdraw the notice of proposed rulemaking that appeared in the FEDERAL REGISTER on January 28, 1977 (42 FR 5371). That notice proposed amendments to the regulations under section 79 of the Internal Revenue Code of 1954. The amendments would have established a new uniform premium rate table to determine the cost of group-term life insurance and made certain changes affecting plans that combine group-term life insurance and permanent benefits.

Many persons have objected to this proposal. The primary objection was that the new table was inappropriate for purposes of section 79. The notice is being withdrawn so the Service and Treasury Department may give these matters further study. The Service anticipates issuing a new notice of proposed rulemaking in the near future. In the meantime, the suspension of letter rulings under section 79 will continue. See IR-1680 (Nov. 4, 1976); Announcement 76-151, 1976-49 (I.R.B. 40 (December 6, 1976)).

The principal draftsperson of this document was John H. Parcell of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing this document, both in matters of substance and style. Mr. Parcell may be contacted at (202) 566-3328 or by mail at 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T (LR-1-77).

Accordingly, the notice of proposed rulemaking on group-term life insurance published in the FEDERAL REGISTER (42 FR 5371) on January 28, 1977 is hereby withdrawn.

WILLIAM E. WILLIAMS,
Acting Commissioner of Internal Revenue.

Approved: March 14, 1977.

LAURENCE N. WOODWORTH,
Assistant Secretary of the Treasury.

[FR Doc.77-8379 Filed 3-16-77;4:17 pm]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 183]

[CGD 76-082]

BOATS AND ASSOCIATED EQUIPMENT

Advance Notice of Proposed Rulemaking for Power Ventilation on Boats

• *Purpose.* The purpose of this notice is to solicit public participation and assistance in the formulation of a proposed rule that would require power ventilation systems on gasoline powered inboard and inboard/outdrive boats to lessen the possibility of fires and explosions which are the primary cause of property damage and the second greatest cause of personal injury from boating accidents. •

Existing ventilation regulations require gasoline powered motorboats or motor vessels to have "at least 2 ventilation ducts fitted with cowls or their equivalent, for the efficient removal of explosive or flammable gases from the bilges of every engine and fuel tank compartment." The effectiveness of this type of natural ventilation method was questioned in a 1975 report based upon information from two independent research projects. The report, A Comparison of Proposed Ventilation Requirements for Inboard Engine Recreational Boat Compartments, is on file in the public docket in Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street S.W., Washington, D.C.

The report showed that a natural ventilation system is effective only when a boat is moving fast enough to force air through the ventilation ducts, or when the wind is at sufficient velocity and direction to blow through the ducts. The report concluded that there is a definite need for some type of forced ventilation on boats to remove flammable and explosive gases before the engine is started. Boating accident statistics indicate that most fires and explosions occur while the boat is dead in the water after fueling. A forced ventilation system would assure that engine compartments are properly ventilated before the engine is started.

Specific comments are requested on the following areas.

A. *Applicability.* (1) The Coast Guard is considering adding a requirement for power ventilation in enclosed engine compartments and in enclosed fuel tank compartments that contain an open vented fuel tank. Should power ventilation be required in other areas? If so, what areas and why? Should open boats with tightfitting convertible or camper tops be required to have power ventilation? Are these boats considered enclosed? Why? At present, the Coast Guard considers a compartment to be enclosed if it has less than 15 square inches of open area directly exposed to the atmosphere for each cubic foot of compartment volume. Is this definition satisfactory? If not, how should it be changed and why?

(2) Because of the infinite variety of shapes and sizes of boats, the Coast Guard is considering directing forced ventilation standards toward overall performance rather than individual component design. Should the design of individual components of a proposed ventilation system be specified? If so, which components and why? How should compliance testing of these components be accomplished and why?

(3) The proposed rule for power ventilation systems is intended to apply only to gasoline powered inboard and inboard/outdrive boats. Should outboard boats with permanently installed fuel tanks be included in the power ventilation requirement? If so, under what circumstances should they be included and why?

B. *Ventilation systems.* (1) An effective power ventilation system is able to remove flammable and explosive gases within a reasonable period of time. An inefficient system could possibly increase the danger of explosion by bringing in enough air to lower a high concentration of fuel vapors to an explosive range of concentration by the time the engine starts. Therefore, should there be a time limit set to ensure a complete exchange of air in the ventilated compartment? If so, how much time should be required and why? Should a specific size to blower be required? If so, how should the size be determined and why?

(2) The Coast Guard believes that some means should be incorporated into a power ventilation system to prevent the engine ignition system from being energized before the power ventilation system is energized. Should this goal be accomplished by some type of interlock that prevents the engine from starting until ventilation occurs? If so, what type: time delay, series switches, vapor detectors, or another type? Specify the type and explain why it should be chosen. If interlocks are used, what type of override device should be employed to permit fast starting in emergency situations or restarting after a stall? Would some type of warning signal be better than an interlock? If so, what type? Sound (buzzer, whistle, siren, etc.) or sight (light, flag, etc)? Why?

(3) Power ventilation is intended to be used when the boat is dead in the water. Natural ventilation is still needed when the boat is underway. The existing ventilation regulation does not clearly define "efficient removal" in describing the minimum level of performance of a ventilation system. Based on the report, A Comparison of Proposed Ventilation Requirements for Inboard Engine Recreational Boat Compartments, the Coast Guard has determined that the size of the natural ventilation ducts must be related to the net compartment volume of the space being ventilated for "effective removal of explosive or flammable gases" to take place. The Coast Guard believes that the following formula shows an adequate relationship between duct size and compartment volume:

$$A = 10 \log N \left(\frac{V}{5}\right)$$

Where A is the aggregate area in square inches of all natural intake and exhaust ducts; and V is the net volume in cubic feet of the space to be ventilated; and $\log N \left(\frac{V}{5}\right)$ is the natural logarithm of the quantity $\left(\frac{V}{5}\right)$.

Should this formula be used to determine the size of natural ventilation ducts? If not, why? Is there a more satisfactory method for determining duct size? If so, what is it?

(4) Open boats are not required to have a ventilation system. In the 1966 publication "Ventilation Systems for Small Craft" (CG-395) the Coast Guard defines an "open" boat as one which meets each of the following conditions:

(i) Engine and fuel tank compartments shall have as a minimum 15 square inches of open area directly exposed to the atmosphere for each cubic foot of net compartment volume.

(ii) There must be no long or narrow unventilated spaces accessible from such compartments in which a flame front could propagate.

(iii) Long, narrow compartments (such as side panels), if joining engine or fuel compartments and not serving as ducts thereto, shall have at least 15 square inches of open area per cubic foot provided by frequent openings along the full length of the compartment formed.

Is this definition satisfactory? If not, how should it be changed and why?

C. *Economic impact.* (1) What will be the approximate retail cost of each ventilation system to the consumer? (2) What will be the annual cost to the boat owner?

D. *Environmental impact.* (1) What will be the impact upon the environment of a requirement for power ventilation on boats? (2) Will power ventilation requirements conflict with any state laws or local ordinances?

The National Boating Safety Advisory Council was given a preliminary draft of this proposal on May 18, 1976. The minutes of the meeting are on file in the public docket in Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street S.W., Washington, D.C.

Interested persons are invited to participate in this proposed rulemaking by submitting written data, views or arguments to the Commandant (G-CMC/81), U.S. Coast Guard, Washington, D.C. 20590. Each person submitting a comment should include his name and address, identify the notice (CGD 76-082) and give reasons in support of his comment. Comments received before May 5, 1977, will be considered before action is taken on this proposal. Copies of all written comments received will be available for examination by interested persons in Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. If the Coast Guard determines, after an evaluation of the comments received, that it is in the public interest to proceed further with this rulemaking, a notice of proposed rulemaking will be issued.

(46 U.S.C. 1454, 49 CFR 1.46(n)(1).)

Dated: March 15, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc.77-8353 Filed 3-18-77;8:45 am]

[33 CFR Part 117]

[CGD 75-035]

FOX RIVER, WISCONSIN

Proposed Drawbridge Operation Regulations

At the request of the City of Oshkosh, the Coast Guard published a Notice of Proposed Rule Making in the FEDERAL REGISTER on February 6, 1975 (40 FR 5541) that would have restricted openings for the four highway drawbridges across the Fox River and Portage Canal located within the City of Oshkosh. The draws of these bridges are presently required to open on signal. Numerous objections to this proposal were received.

Many of the objections were based on the premises that the proposal would be too restrictive to navigation; that vessels might get stuck between bridges, causing undue delay; that dangerous situations could develop because of swift currents and limited holding areas. Several comments requested a reduction in the time advance notices were to be given.

After several meetings between the city and local boating interests, resolving their differences in general, a revised proposal is presented for consideration.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Ninth Coast Guard District, 1240 East Ninth Street, Cleveland, Ohio 44199. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Ninth Coast Guard District.

The Commander, Ninth Coast Guard District, will forward any comments received before April 26, 1977, with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., and all communications received will be evaluated before final action is taken on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by adding a new paragraph (d) to § 117.643 to read as follows:

§ 117.643 Fox River and Portage Canal, Wis.

* * * * *

(d) Highway bridges at Oshkosh, Wisconsin.

(1) The owners of or agencies controlling the bridges shall provide the necessary draw tenders and properly maintain operating machinery to insure the safe opening of the draws.

(2) *Signals.* The signal for opening the bridges shall be three blasts of a whistle, horn or other sound producing device.

(3) The draws shall be opened on signal between the hours of 8 a.m. and 12 midnight except that on Monday through Friday from 11:45 a.m. to 12:15 p.m., 12:45 p.m. to 1:15 p.m., and 3 p.m. to 5 p.m. the draw need not open for the passage of vessels other than public vessels of the United States. However, the draws shall open promptly on signal from 8 a.m. to 12 midnight on Memorial Day, 4th of July, and Labor Day.

NOTE.—During the times when the "draw need not open" the draw may open if vehicular traffic permits.

(4) From 12 midnight to 8 a.m., the draws shall open for the passage of the vessels if at least two hours notice is given via radiotelephone to the Main Street draw tender or the Winnbago County Sheriff's Department.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: March 15, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc.77-8359 Filed 3-18-77;8:45 am]

DEPARTMENT OF DEFENSE

Corps of Engineers

[33 CFR Part 222]

[ER 1110-2-]

ENGINEERING AND DESIGN

Technical and Engineering Assistance to Non-Federal Public Interests on Shore and Streambank Erosion

AGENCY: Corps of Engineers, DOD.

ACTION: Proposed rule.

SUMMARY: This document describes the kind of assistance and procedures to be followed by the Corps of Engineers in providing technical and engineering assistance to non-Federal public interests in developing proper methods of preventing shore and streambank erosion. This was brought about by non-Federal interests such as a state, county, city or subdivision thereof requesting such assistance. This regulation will, in effect, expedite action on these requests.

DATES: Comments by May 5, 1977.

ADDRESSES: Comments to: HQDA-(DAEN-CWE-H) Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT:

Jacob H. Douma; Chief, Hydraulic and Hydrology Branch, Office, Chief of Engineers, Washington, D.C. 20314. (202-693-6892).

SUPPLEMENTARY INFORMATION: Streambank and shoreline erosion occurs at thousands of locations throughout the nation. The Corps of Engineers has the expertise to develop methods of protecting against this type of erosion. The Congress has authorized the Corps to use its expertise to provide technical and engineering assistance to non-Federal public interests in eroding areas which are not within an authorized Federal project. This ER is being issued to provide guidance to Corps Districts and Divisions on policies and procedures for carrying out the program.

Until the final regulation is published in the FEDERAL REGISTER field operating agencies having Civil Works responsibilities will utilize the policies and procedures contained in the proposed regulation to the fullest extent practicable. The regulation will become fully effective when published in final form in the FEDERAL REGISTER.

It is proposed to add a new Part 222 as set forth below.

PART 222—ENGINEERING AND DESIGN

Sec.

222.1 Technical and Engineering Assistance to Non-Federal Public Interests on Shore and Streambank Erosion (ER 1110-2-).

222.2-222.9 [Reserved]

AUTHORITY: Section 55, Public Law 93-251, Water Resources Development Act of 1974.

§ 222.1 Technical and Engineering Assistance to Non-Federal Public Interests on Shore and Streambank Erosion.

(a) *Purpose.* This regulation provides basic policies and general guidelines for Corps of Engineers participation in the program authorized by Section 55 of the Water Resources Development Act of 1974.

(b) *Applicability.* This regulation applies to all OCE elements and all field operating agencies having Civil Works responsibilities.

(c) *Reference.* Section 55, Public Law 93-251, Water Resources Development Act of 1974, 7 March 1974.

(d) *Legislative provisions.* Section 55 states as follows:

The Secretary of the Army, acting through the Chief of Engineers, is authorized to provide technical and engineering assistance to non-Federal Public interests in development of structural and nonstructural methods of preventing damages attributable to shore and streambank erosion.

(e) *Basic policies.* (1) "Technical and engineering assistance" may consist of providing services but no funds for the following: (i) Discussion of specific shore and streambank erosion problems, including inspection of problem areas; (ii) advice on current methods of economic benefit evaluation, possible methods of protection, and construction permit requirements for structural and non-structural alternatives of preventing streambank erosion; (iii) copies of available pertinent Corps technical data, information and reports; (iv) technical aid to strengthen the recipient in developing its own capability to determine feasibility of, to prepare plans for, and to construct erosion protection; (v) review plans and specifications prepared by non-Federal public interests or by AE firms for such interests; and (vi) inspection and advice on adequacy of construction. Such assistance will not include surveys, foundation investigations, preparation of preliminary designs or plans and specifications, nor supervision and construction. All assistance will be entirely free of cost to non-Federal public interests, including cost of copies of data and reports.

(2) "Non-Federal public interest" will include any duly authorized agency of any State, county, city or subdivision thereof. The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, Samoa, and the U.S. Virgin Islands.

(3) "Structural and non-structural methods" will include any type of bank protection which has proven to be effective in preventing shore and streambank erosion, any new method which may be developed under authority of Sections 32 and 54, Public Law 93-251, 7 March 1974, or any non-structural method such as by vegetation or zoning.

(4) "Shore and streambank erosion" are defined as erosion occurring along shorelines of oceans, gulfs, bays, estuaries, the Great Lakes, inland lakes and reservoirs, and along all stream banks.

(5) The Soil Conservation Service (SCS), U.S. Department of Agriculture has responsibility to assist individuals and groups with shoreline and streambank erosion where the problem can be solved with vegetation, normal upland erosion control practices or minor structures and where failure will not create a

hazard to life, and where the problem is not on the open and unprotected shores of major ocean fronts and the Great Lakes. Where there is a potential for duplication of effort the work should be coordinated with SCS.

(f) *General guidelines.* (1) Division and District Engineers will publicize the program to State and local non-Federal public interests. Division Engineers will make initial contacts with State governors, or the State designated individual or agency responsible for all matters dealing with water resources, to advise them of the Section 55 program, requesting an expression of interest.

(2) If interest is shown, a meeting of the non-Federal public interests, District and appropriate Division representatives should be encouraged to discuss potential area of assistance. The District should take the lead unless the area involves several Districts, in which case Division lead may be more appropriate.

(3) Corps activities under Section 55 within one State or political subdivision thereof should not extend to areas which clearly involve the interests of other States or political subdivisions thereof, unless all involved agree that the activities reflect coordinated response to the needs of all the non-Federal public interests.

(4) Each District Engineer is responsible for implementing and administering the program within a State based on existing geographical areas of Corps responsibility.

(5) Non-Federal public interests should submit requests for engineering and technical assistance by letter directly to the District Engineer for the particular geographical location. Action thereon should be taken through normal District-Division channels without involving another Division which may have made the initial State contact.

(6) A meeting should be held with the agency requesting assistance for the purpose of identifying the urgency, scope, schedule and costs of the assistance.

(7) A memorandum of agreement between the District Engineer and the non-Federal public interest, describing the scope, schedule and cost of assistance and stating that the Corps and Federal government will not be responsible for the effectiveness of completed projects, should be signed by both parties prior to providing any assistance.

(8) The provisions of paragraphs (f) (5), (6) and (7) of this section are not required when, in the opinion of the District Engineer, the circumstances and limited scope of assistance do not warrant complying with these provisions.

(g) *Program management.* (1) District Engineers are authorized to respond to all assistance requests estimated to cost up to $3,000. For requests estimated to cost over $3,000, District Engineers will submit assistance requests, together with estimates of cost, to Division Engineers who will review and approve requests (copies of requests and actions thereon will be furnished to HQDA (DAEN-CWE-H), Washington, D.C. 20314). Requests will be handled promptly within the limits of available funds.

(2) The New England Division Engineer will be responsible for all District and Division functions designated herein.

(3) Each Division and District Engineer is to designate an individual to manage and coordinate his respective activities under this program.

(4) Overall OCE programs coordination and selection of assistance projects, when funding requests exceed funds allocated to Division, will be by DAEN-CWE.

(h) *Funding.* Annual budget requests will be submitted as required by appropriate budget circulars and regulations, under the general title of "Coordination Studies With Other Agencies."

Dated: March 14, 1977.

For the Chief of Engineers.

RUSSELL J. LAMP,
Corps of Engineers, Executive.

[FR Doc.77-8028 Filed 3-18-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 701-6]

TEXAS

Proposed Approval and Promulgation of Implementation Plans

On May 31, 1972, the Administrator approved, with specific exceptions, the State Implementation Plan (SIP) for Texas. Parts of the SIP which were approved included Rules 23 and 24 of the General Rules.

On May 9, 1975, the Governor of Texas submitted revisions to Rules 23 and 24. The original Rule 23 stated the intention of the Texas Air Control Board (TACB) to enforce ambient air quality standards and emission limitations promulgated under the Clean Air Act. The revision to Rule 23 replaces the original with a completely new subject. As revised, Rule 23 states that applicable sources will comply with New Source Performance Standards and Emission Standards for Hazardous Air Pollutants promulgated under Sections 111 and 112 respectively of the Clean Air Act. While the revision to Rule 23 replaces the entire wording of the original rule, no detrimental effects should occur. The implied charter of any State air pollution control agency is attainment and maintenance of the national ambient air quality standards, and it is not a requirement that it be stated specifically in a rule or regulation.

The revision to Rule 24 is considered an administrative change. The original rule concerned the applicability of the national ambient air quality standards state-wide, and cited the source of the standards as the FEDERAL REGISTER published on April 30, 1971. In the revision to Rule 24, the source of the air quality standards was changed to reflect Section 109 of the Clean Air Act.

The revisions to Rules 23 and 24 were adopted by the TACB after adequate notice and public hearing. Copies of the State's proposed revisions are available for inspection at the EPA Region VI Office in Dallas, Texas (see address below). Copies of these revisions are also available at the Environmental Protection Agency, Public Information Reference Unit, Room 2922, EPA Library, 401 M Street, S.W., Washington, D.C. 20460.

Interested persons may participate in this proposed rulemaking by submitting written comments to the Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Texas 75270. All comments received on or before April 20, 1977, will be considered.

This notice of proposed rulemaking is issued under the authority of Section 110(a) of the Clean Air Act as amended, 42 U.S.C. 1856c-5(a).

Dated: March 7, 1977.

JOHN C. WHITE,
Regional Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

Subpart SS—Texas

1. In § 52.2270, paragraph (c) is amended by adding paragraph (12) as follows:

§ 52.2270 Identification of Plan.

* * * * *

(c) * * *

(12) A revision to Rules 23 and 24 was submitted by the Governor on May 9, 1975.

[FR Doc.77-8257 Filed 3-18-77;8:45 am]

[40 CFR Part 52]

[FRL 702-1]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Air Pollution Control; Pima County Rules and Regulations; State of Arizona

INTRODUCTION

The Regional Administrator hereby issues this notice proposing approval, with exception, of revisions to the Arizona State Implementation Plan (SIP) and advising the public that comments may be submitted on the proposed action.

BACKGROUND

On January 28, 1972, pursuant to Section 110 of the Clean Air Act and 40 CFR Part 51, the State of Arizona submitted to EPA for approval an implementation plan for the attainment and maintenance of the National Ambient Air Quality Standards. On May 31, 1972 (32 FR 10842), the Administrator approved the plan, with exceptions, based on whether the appropriate requirements of 40 CFR Part 51 had been satisfied. Soon after the initial disapprovals, the Administrator promulgated substitute Federal regulations for the SIP to insure that all 40 CFR Part 51 requirements were met. Since then, the State has submitted revisions to the SIP to correct deficiencies

originally identified by EPA and to include new State and local regulations. EPA has reviewed, or is in the process of reviewing, these revisions.

On September 30, 1976, the State submitted to EPA amendments to the Pima County Air Quality Control District Rules and Regulations as proposed revisions to the Arizona SIP. The amended regulations concern definitions, emission limitations from fuel burning installations, ambient air quality standards, exceptions to the regulations, standards of performance for new stationary sources and emission standards for hazardous air pollutants. The intent of this notice is to propose EPA's action and solicit public comment on the September 30, 1976 submittal.

Discussion of Action

The amendments were adopted by the Pima County Board of Supervisors in accordance with the procedural requirements of 40 CFR 51.4. The Regional Administrator proposes to approve the amended regulations with exception of the following:

Regulation II, Rule 7A, Sulfur Dioxide Emissions from Fuel Burning Installations should be disapproved because no demonstration was made to show that the use of high sulfur oil would not interfere with the attainment or maintenance of the National Ambient Air Quality Standards.

Regulation II, Rule 11A., Malfunction, Startup, Shutdown, and Scheduled Maintenance will be dealt with by EPA in a separate Federal Register action.

Public Comments

Interested persons may participate in this rulemaking by submitting written comments to the EPA Region IX Office at the address given above. Relevant comments received on or before April 20, 1977, will be available for public inspection during normal working hours at the Region IX office.

Availability of Documents

Copies of the regulations, Evaluation Report, and Federal Register notice are available for public inspection during normal business hours at the following locations:

Freedom of Information Center, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

EPA—Region IX Office, 100 California Street, San Francisco, Calif. 94111.

Arizona State Department of Health Services, 1740 West Adams Street, Phoenix, Ariz. 85007.

Pima County Air Quality Control District, Pima County Health and Welfare Building, 151 West Congress Street, Tucson, Ariz. 85701.

(Sec. 110(a) of the Clean Air Act, as amended, 42 U.S.C. 1857c-5(a).)

Dated: March 14, 1977.

R. L. O'Connell,
Acting Regional Administrator.

[FR Doc.77-8402 Filed 3-18-77;8:45 am]

[40 CFR Part 52]

[FRL 702-2]

APROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Gasoline Vapor Recovery Regulations; Revision of California Implementation Plan for Gasoline Vapor Recovery Regulations

This notice of proposed rulemaking sets forth the Administrator's intention to take action on the state submitted revisions to the California State Implementation Plan (SIP) concerning county air pollution control district (APCD) gasoline vapor control regulations, and to modify the existing EPA promulgated gasoline transfer vapor control regulation, 40 CFR 52.255.

On November 12, 1973, EPA promulgated gasoline vapor control regulations, 40 CFR 52.255 and 52.256, as part of the California Transportation Control Plan, as a result of the failure by the State of California to submit such a Plan by the court-ordered deadline. Since then, many APCDs have adopted gasoline vapor control regulations that are, for the most part, modeled after the suggested California Air Resouces Board (ARB) regulations adopted April 17, 1975.

Stage I Regulations

Because differing Federal and county gasoline vapor control regulations are in existence in many areas, confusion has resulted concerning what control requirements were necessary, and when final compliance was required. On March 4, 1976, (41 FR 9339), as an attempt to remedy this confusion, the Administrator amended the final compliance date of 40 CFR 52.255 (the Stage I regulation) to be consistent with that of the APCD adopted regulations, July 1, 1976. In addition, the notice identified exemptions contained in the APCD regulations that are not contained in § 52.255 (i.e., 2000 gallon tanks, agricultural tanks, and delivery vehicles loaded at small distribution facilities) and extended the final compliance date until January 1, 1977 for these sources. Since that time, EPA has investigated and evaluated the economic impact, the availability of control hardware, and the magnitude of emissions associated with the control of these exempted sources. Resolution of the equivalency of these APCD exemption provisions with the federal regulation has been made except for the small distribution facility or bulk plant issue.

It has been determined that the APCD exemption provisions for 2000 gallon tanks and agricultural tanks are offset by the requirements for submerged fill on all tanks, and results in slightly more overall control than is achieved by the Federal regulation. Therefore, these exemption provisions are proposed to be approved. Further, to maintain continuity between Federal and APCD regulations in California, the Federal regulations are being amended to contain consistent exemption provisions.

The Agency's studies to determine the degree to which bulk plants should be controlled, and the equivalency of the APCD regulations, have not yet been completed. Since final compliance was required by January 1, 1977 and additional time was necessary to finalize Agency policy, the January 1, 1977 final compliance date was extended to May 31, 1977, in 41 FR 56642 (December 29, 1976). Therefore, the approvability of the APCD bulk plant exemption provision is not being addressed at this time and the present Stage I Federal regulation for bulk plants will be retained. It is expected that this extended May 31, 1977 final compliance date will provide sufficient time for a resolution of this issue and appropriate action will be taken at that time.

As a result, this notice of proposed rulemaking is concerned with the approval/disapproval action to be taken on the following APCD adopted gasoline vapor control regulations that have been submitted as official SIP revisions (date of submission is indicated):

Southern California APCD, Rules 461 and 462 (April 21, 1976 and November 10, 1976).
Santa Barbara County APCD, Rules 35.1 and 35.2 (April 21, 1976 and November 10, 1976).
Fresno County APCD, Rules 411 and 411.1 (April 21, 1976).
Kern County APCD, Rules 412 and 412.1 (April 21, 1976).
Merced County APCD, Rules 411 and 411.1 (August 2, 1976).
Stanislaus County APCD, Rules 411 and 411.1 (April 21, 1976).
Tulare County APCD, Rules 412 and 412.1 (April 21, 1976).
Kings County APCD, Rules 412 and 412.1 (April 21, 1976).
Madera County APCD, Rules 411.1 and 411.2 (April 21, 1976).
Ventura County APCD, Rules 70 and 71 (February 10, 1976 and November 10, 1976).
San Joaquin County APCD, Rules 411.1 and 411.2 (February 10, 1976).
Sacramento County APCD, Rules 13 and 14 (November 3, 1975 and November 10, 1976).
Monterey Bay APCD, Rule 418 (November 3, 1975).
San Diego County APCD, Rule 61 (July 19, 1974) and Rule 63 (November 3, 1975).
Bay Area APCD, Regulation 2, § 1302.2 (April 10, 1975), § 1302.21 (November 3, 1975), § 1302.22 (April 10, 1975), and § 1302.23 (November 3, 1975).
Yolo-Solano APCD, Rules 2.21 and 2.23 (July 19, 1974).

The following APCD regulations have been reviewed for their consistency with 40 CFR 52.255 and are proposed to be approved. However, until the above mentioned bulk plant issues are resolved, the provisions of § 52.225 controlling distribution facilities will remain in effect:

Southern California APCD, Rules 461 and 462
Santa Barbara County APCD, Rule 35.1
Fresno County APCD, Rule 411
Kern County APCD, Rule 412
Merced County APCD, Rule 411
Stanislaus County APCD, Rule 411
Tulare County APCD, Rule 412
Madera County APCD, Rule 411.1
Ventura County APCD, Rule 70
San Joaquin County APCD, Rule 411.1
Sacramento County APCD, Rule 13

Kings County APCD Rule 412 has been reviewed for consistency with 40 CFR 52.255 and is proposed to be approved. Since these regulations apply only to tanks installed after July 1, 1975 and are not equivalent to the Federal requirements for tanks installed prior to this date, Section 52.255 will remain in effect for tanks installed before July 1, 1975. In addition, until the above mentioned bulk plant issues are resolved, the provisions of § 52.255 controlling distribution facilities will remain in effect.

Madera County APCD Rule 411.1 has been reviewed for consistency with 40 CFR 52.255 and is proposed to be approved. Since these regulations apply only to tanks installed after January 1, 1975 and are not equivalent to the Federal requirements for tanks installed prior to this date, § 52.255 will remain in effect for tanks installed before January 1, 1975. In addition, until the above mentioned bulk plant issues are resolved, the provisions of § 52.255 controlling distribution facilities will remain in effect.

Yolo-Solano APCD Rule 2.21 has been reviewed for consistency with 40 CFR 52.255 and is proposed to be disapproved. Section 52.255 will remain in effect because these regulations contain no final compliance date and because of the pending resolution of the above mentioned bulk plant issues. EPA is aware that the Yolo-Solano APCD Rule 2.21 has been amended since it was submitted in July 1974 and therefore, the ARB is requested to submit the most recent version for evaluation.

There are currently no federally-promulgated regulations for San Diego County or the San Francisco Bay Area because at the time of promulgation these APCDs currently had in existence gasoline vapor control regulations that were considered to be equivalent.

It is proposed that San Diego County APCD, Rules 61 and 63 be approved, because these regulations are equivalent to 40 CFR 52.255. When the bulk plant exemption issue is resolved, these regulations will be reviewed and included in the Federal regulation if not equivalent.

It is proposed that the Bay Area APCD, Regulation 2, §§ 1302.2, 1302.21, 1302.22, and 1302.23 be approved, because these regulations are equivalent to 40 CFR 52.255. When the bulk plant exemption issue is resolved, these regulations will be reviewed and included in the Federal regulation if not equivalent.

It is proposed to approve the Monterey Bay APCD, Rule 418.

Amendment to Section 52.255

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations by amending § 52.255 by deleting paragraphs (c)(3)(v) and (vi) and by revising paragraphs (d), (d)(1) and (d)(2) to read as follows:

§ Gasoline transfer vapor control.

* * * * *

(d) The provisions of paragraph (c) of this section shall not apply to the following:

(1) Stationary containers used primarily for the fueling of implements of husbandry, if such container is equipped by May 31, 1977, with a permanent submerged fill pipe.

(2) Any container having a capacity of 2,000 gallons or less installed prior to July 1, 1975, if such container is equipped with a permanent submerged fill pipe by May 31, 1977.

* * * * *

Information relevant to the impact of these proposed amendments is requested and should be submitted as written comments as outlined at the end of this notice.

Vehicle Refueling Regulations

EPA's vehicle refueling (Stage II) regulations, 40 CFR 52.256, were promulgated on November 12, 1973. Changes in those regulations were proposed on October 9, 1975, and again on November 1, 1976, in 40 FR 48044. This latest proposal made several basic changes in the enforcement and implementation strategies previously proposed. The principle changes made were (1) establishment of a phase-in compliance approach and (2) abandonment of a system preinstallation certification program in favor of a strengthened in-use enforcement program utilizing a shorter, easier test procedure. EPA has reviewed the California Air Resources Board certification program and the APCD regulations, and is concerned over the apparent lack of measures directed toward ensuring proper functioning of the systems once installed; however, EPA has yet to adopt any such measures itself, and it has been determined that the California programs are as stringent as EPA's November 12, 1973, promulgation. Approval is therefore being proposed. In addition, approval of the California ARB and APCD programs is being proposed because these programs are well established and the fact that final compliance will occur considerably ahead of the Federally proposed schedule. If future experience shows that system certification alone is inadequate to assure that such systems are effective, revisions in the regulations may be required.

Therefore, this notice proposes approval of the following APCD regulations dealing with vehicle refueling gasoline vapor control:

Southern California APCD, Rule 461.
Santa Barbara County APCD, Rule 35.2.
Fresno County APCD, Rule 411.1.
Kern County APCD, Rule 412.1.
Merced County APCD, Rule 411.1.
Stanislaus County APCD, Rule 411.2.
Tulare County APCD, Rule 412.1.
Ventura County APCD, Rule 71.
San Joaquin County APCD, Rule 411.1.
Sacramento County APCD, Rule 14.
San Diego County APCD, Rule 63.
Bay Area APCD, Regulation 2, § 1302.2, § 1302.21, § 1302.22, and § 1302.23.
Yolo-Solano APCD, Rule 2.22.

Kings County APCD Rule 412.1 applies only to sources installed on or after July 1, 1975 and is therefore not equivalent to EPA's November 1, 1976 proposal for sources installed prior to this date. Although Kings County APCD Rule 412.1 is proposed to be approved, it is likely that Kings County will be included in the Federal regulations for sources installed prior to July 1, 1975.

Madera County APCD Rule 411.1 applies only to sources installed on or after January 1, 1975 and is therefore not equivalent to EPA's November 1, 1976 proposal for sources installed prior to this date. Although Madera County APCD Rule 411.1 is proposed to be approved, it is likely that Madera County will be included in the Federal regulations for sources installed prior to January 1, 1975.

Approval action is being proposed at this time so that these APCD regulations can be incorporated as part of the approved SIP. The necessary deletion of these counties, and by other appropriate action will be made at the time EPA's Stage II regulations are finalized.

It is stated here for emphasis, that EPA currently plans to retain the Federal regulations, when finalized, for the counties in the Sacramento Valley and San Joaquin Valley Air Quality Control Regions not listed in this proposed approval action.

Pursuant to Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the indicated regulations as SIP revisions and, therefore, invites public comment on the state submission and indicated proposed approval/disapproval actions.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations:

California Air Resources Board, 1709 11th Street, Sacramento, California 95814.
Environmental Protection Agency, Region IX, 100 California Street, San Francisco, California 94111.
Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" D.C. 20460, Washington, D.C. 20460.

Interested persons may participate in the rulemaking by submitting written comments to the Regional Administrator, EPA, Region IX, Attention: Air Programs Branch, Air and Hazardous Materials Division, 100 California Street, San Francisco, California 94111. Relevant comments received on or before April 20, 1977 will be considered. Comments received will be available for inspection during normal working hours at the Region IX office and the Public Information Reference Unit.

This notice is issued under the authority of Section 110 of the Clean Air Act, as amended.

42 U.S.C. 1857(c)(5).)

Dated: January 28, 1977.

Paul De Falco, Jr.,
Regional Administrator.

[FR Doc.77-8403 Filed 3-18-77;8:45 am]

[40 CFR Part 52]

[FRL 699-7]

STAGE II VAPOR RECOVERY REGULATIONS AND TEST PROCEDURES

Technical Seminar and Public Hearing

On November 1, 1976, EPA reproposed regulations to control emissions resulting from the vehicle refueling process, Stage II Vapor Recovery Regulations (41 FR 48044). Included in this reproposal was a short test procedure and vehicle sampling plan. On December 30, 1976, an alternate sampling plan was issued (41 FR 56889). The written comment period for these topics closed on March 2, 1977.

On Wednesday, March 30, 1977, at 9 a.m., at the National Enforcement Investigation Center, Denver Federal Center, Building 53, Denver, Colorado, EPA will hold a technical seminar to discuss changes that have been made to the short test procedure and vehicle sampling plan as a result of comments received from the public. EPA personnel involved in the development of these changes will be present to answer questions. The seminar will be conducted informally. Due to space limitations, it is requested that attendance be limited to no more than two persons per organization. Any questions concerning the seminar or requests for copies of material to be discussed should be directed to Mr. Peter Principe at 202-426-4147.

Dated: March 14, 1977.

STANLEY W. LEGRO,
Assistant Administrator for Enforcement (EN-329).

[FR Doc.77-7982 Filed 3-18-77;10:56 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 263]

GENERAL STANDARDS FOR FISH FILLETS

Proposed Interim Standards

Correction

F.R. Doc. 77-2193 appearing at page 4468 in the issue of Tuesday, January 25, 1977 was inadvertently published in the Rules and Regulations Section. The document should have been published in the Proposed Rules Section with the heading reading as set forth above.

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF JUSTICE

Office of the Attorney General

[Order No. 696-77]

FREEDOM OF INFORMATION

Published and Unpublished Indexes to Final Opinions and Orders, Statements of Policy and Interpretations, and Administrative Staff Manuals and Instructions

Under subsection (a) (2) of the Freedom of Information Act, 5 U.S.C. 552(a) (2), each agency is required to maintain and make available for public inspection and copying current indexes to the agency's materials relating to certain final opinions and orders, statements of policy and interpretations, and administrative staff manuals and instructions. These indexes are required to be published at quarterly or more frequent intervals and distributed, unless the agency determines by order published in the FEDERAL REGISTER that such publication would be unnecessary and impracticable. The purpose of this order is to bring the Department of Justice into compliance with these requirements of subsection (a) (2) of the Freedom of Information Act.

By virtue of the authority vested in me by 28 U.S.C. 509, and 5 U.S.C. 301 and 552, it is hereby ordered as follows:

1. It is determined that it is unnecessary and impracticable to publish quarterly or more frequently the indexes to the Department of Justice materials indicated below. This determination is made because (a) there is insufficient interest to justify such publication; (b) with respect to some of the indexes listed continual updating and revision is required to reflect the frequent addition of materials; (c) with respect to other indexes changes are too infrequent to warrant quarterly publication; and (d) the practical utility of the indexes does not warrant such publication.

2. Indexes to the materials listed below can be inspected at the Department of Justice Reading Room, Room 1266, 10th and Pennsylvania Avenue NW., Washington, D.C. 20530, except that there are separate public reading rooms maintained by certain Departmental organizations at other locations as noted below. With respect to those materials which are individual documents and not part of a series of similar documents, the list set forth below, together with the headings under which such materials are listed, itself constitutes an index to such materials. In the interests of facilitation of public availability of information, the list set forth below has been prepared with a view to inclusiveness, and accordingly it is possible that a few of the documents or portions thereof referred to below are not of an (a) (2) character or are exempted by subsection (b) of the Act.

The indexes to the (a) (2) materials of the Federal Bureau of Investigation are currently being revised, and will be published at a later date.

(a) *Antitrust Division.* (1) Antitrust Division Manual, chapter 1 (Organization of the Department and the Division), chapter 5 (Policy and Planning), and chapter 6 (Miscellaneous).

(2) Investigations of Cases of Price-Fixing, except for sample documents B, C, P, and G.

(3) Antitrust Guide for International Operations.

(b) *Board of Immigration Appeals.* Public Reading Room, Room 1122, Safeway Building, 521 12th Street NW., Washington, D.C.:

(1) Selected Decisions Designated as Precedents; published periodically in hard cover and as slip opinions by the Government Printing Office.

(2) Precedent and Selected Nonprecedent Decisions; indexed by subject matter in reading room.

(c) *Bureau of Prisons.* Public Reading Room, 117 D Street NW., Washington, D.C.:

(1) Numerical and Alphabetical Listings of Effective Policy Statements: (i) General Management and Administration; (ii) Laws and Legal Matters; (iii) Personnel Management; (iv) Budget Management; (v) Research, Development and Statistics; (vi) Accounting Management; (vii) Procurement and Warehouse Management; (viii) Commissary Management; (ix) Miscellaneous Business and Fiscal Management; (x) Custodial Management; (xi) Food Service Management; (xii) Farm Service Management; (xiii) Safety Standards, and Procedures; (xiv) Jail Administration; (xv) Facilities and Equipment; (xvi) Industrial Management; (xvii) Medical Service Management (xviii) Parole Board; (xix) Information Systems.

(2) Numerical and Alphabetical Listings of Effective Operations Memoranda: (i) General Management and Administration; (ii) Personnel Management; (iii) Budget Management; (iv) Inmate Management; (v) Accounting Management; (vi) Procurement and Warehousing Management; (vii) Commissary Management; (viii) Safety Standards and Procedures; (ix) Industrial Management.

(d) *Civil Division.* (1) Civil Division Practice Manual; (2) Civil Division Orders and Directives.

(e) *Civil Rights Division.* (1) Submissions under Section 5 of the Voting Rights Act of 1965.

(f) *Community Relations Service.* Public Reading Room, Room 667B, Todd Building, 550 11th Street NW., Washington, D.C.: (1) Community Relations Service Directives Manual; (2) Memoranda from the Director; policy and position statements.

(g) *Criminal Division.* (The Criminal Division is currently revising all of its policy memoranda for inclusion in the new United States Attorneys' Manual; when published this Manual will supersede all existing publications of the Division, and its index will constitute the (a) (2) index and will be published in the FEDERAL REGISTER):

(1) Miscellaneous Memoranda; including circulars, orders, directives to staff and notices.

(2) Compilations of Legislative Materials.

(3) Adversary Hearings Memorandum.

(4) Authority to Compromise Civil Penalties Assessed Under the Coal Mine Health and Safety Act of 1969, 30 U.S.C. Sections 801 et seq. (Criminal Division Memorandum No. 802 to United States Attorneys).

(5) Copyright Protection of Sound Recordings (Criminal Division Manual, April 1973).

(6) Deletion of Portions of Motion Picture Films or Other Materials or Their Reexportation After Seizure by the Bureau of Customs as Obscene and Inadmissible Under 19 U.S.C. 1305 (Criminal Division Memorandum No. 767 to United States Attorneys).

(7) Extradition Handbook (Criminal Division Manual, December 1974).

(8) Extradition-Provisional Arrest (Criminal Division Memorandum of November 8, 1974, to Section Chiefs).

(9) Handbook for Federal Obscenity Prosecutions (Criminal Division Manual, June 1972).

(10) Handling of Obscene Private Correspondence Cases, 18 U.S.C. 1461 (Criminal Division Letter of August 31, 1964, to United States Attorneys).

(11) Sound Recording Piracy; Violations of 17 U.S.C. 104 (Criminal Division Memorandum No. 793 to United States Attorneys).

(h) *Drug Enforcement Administration.* Public Reading Room, Room 200, 1405 Eye Street NW., Washington, D.C.:

(1) DEA/Registrant Memorandums of Understanding; signed by registrant and DEA official. 21 CFR Part 1300.

(2) DEA Policy and Guidelines not published in the FEDERAL REGISTER.

(3) Tort Claims.

(4) Petitions for Remission or Mitigation of Forfeiture.
(5) Privacy Act—Policy Statements.
(6) Final Orders.
(7) Legal Opinions by Chief Counsel.
(8) Memoranda of Understanding between States and DEA/BNDD/DBAC/FBN.
(9) Compliance Administrative Manual.

(i) *Executive Office for United States Attorneys.* (The Executive Office for United States Attorneys is currently revising all of its policy memoranda for inclusion in the new United States Attorneys' Manual; when published this manual will supersede the existing U.S. Attorneys' Manual and its index will constitute the (a) (2) index and will be published in the FEDERAL REGISTER):
(1) United States Attorneys' Manual.
(2) United States Attorneys' Bulletins.
(3) Proving Federal Crimes, 6th edition, April 1976.

(j) *Immigration and Naturalization Service.* Public Reading Room, 425 I Streeet NW., Washington, D.C., and at all I&NS District Offices:
(1) Administrative Decisions Under Immigration and Naturalization Laws (including both precedent and nonprecedent decisions);
(2) Administrative Manual.
(3) Authority of Officers of the Immigration and Naturalization Service to Make Arrests (M-69).
(4) Border Patrol Handbook.
(5) Guide for the Inspection and processing of Citizens and Aliens by Officers Designated as Immigration Inspectors (M-94).
(6) Immigrant Inspector's Handbook.
(7) Investigator's Handbook.
(8) Naturalization Examiner's Guide.
(9) Officers' Handbook (M-68).
(10) Operations Instruction and Interpretations (the latter pertaining to nationality acquisition and loss).

(k) *Land and Natural Resources Division.* (1) Federal Eminent Domain (a two-volume manual).
(2) Federal Condemnation Manual—1951.
(3) Federal Condemnation Handbook (two volumes).
(4) Condemnation Seminar, volume I—1962.
(5) Condemnation Seminar, Volume II—1963.
(6) Condemnation Seminar, Volume III—1964.
(7) Condemnation Seminar, Volume IV—1966.
(8) Condemnation Seminar, Volume V—1971.
(9) Condemnation Seminar, Volume VI—1973.
(10) Guidelines for Federal Water Pollution Control Litigation—January 18, 1973.
(11) Layman's Guide to Investigating Section 10 Violations—1975.
(12) Directive No. 7-68, Settlement Policy and Guidelines in Condemnation Cases.
(13) Standards for the Preparation of Title Evidence in Land Acquisitions by the United States.
(14) Guidelines for Investigations of Violations of the 1899 Refuse Act.
(15) Title Evidence Requirements for Condemnation Cases—August 1, 1973.
(16) Regulations of the Attorney General Promulgated in Accordance with the Provisions of Public Law 91-393 Approved September 1, 1970, 84 Stat. 835, An Act to Amend Section 355 of the Revised Statutes, as Amended, Concerning Approval by the Attorney General of the Title to Lands Acquired for and on Behalf of the United States.
(17) Manual of Organization, Operation and Procedures.
(18) Analysis of Uniform Relocation Assistance and Real Property Acquisition Act of 1970—March 9, 1971.

(l) *Law Enforcement Assistance Administration.* Public Reading Room, 633 Indiana Avenue NW., Washington, D.C.:
(1) Legal Opinions of the Office of General Counsel of the Law Enforcement Assistance Administration, United States Department of Justice, six indexed volumes, each covering the following time periods:
(i) January 1, 1969 to June 30, 1973;
(ii) July 1, 1973 to December 31, 1973;
(iii) January 1, 1974 to June 30, 1974;
(iv) July 1, 1974 to December 31, 1974;
(v) January 1, 1975 to June 30, 1975;
(vi) July 1, 1975 to December 31, 1975.
(2) Numerical Checklist of Effective LEAA Directives (Instruction 0000.2N, May 31, 1976).
(3) Current Listing of LEAA External Directives (Guideline 0000.6F, March 10, 1976).
(4) Implementation of the Privacy Act of 1974 (Instruction 1030.4, November 25, 1975).
(5) Standards of Conduct (Instruction 1551.2B, April 7, 1975; Change—1, November 12, 1975).
(6) Freedom of Information Act Amendments (Instruction 1600.4A, May 29, 1975).
(7) Attorney General's Memorandum on the 1974 Amendments to the Freedom of Information Act (Instruction 1600.5, March 7, 1975).
(8) Department of Justice Freedom of Information Act Regulations (28 CFR Part 16(A)) (Instruction 1600.6, March 20, 1975).
(9) Reallocation of LEAA Categorical Grant Funds (Instruction 4050.1, December 11, 1975).
(10) Eligibility for Grants (Instruction 4060.2, September 10, 1974).
(11) State Planning Agency Grants (Manual 4100.1E, January 16, 1976).
(12) Guide for Discretionary Grant Programs (Manual 4500.1D, July 10, 1975; Change—1, April 12, 1976).
(13) Law Enforcement Education Program (Manual 5200.1B, May 6, 1975; Change—1, October 8, 1975).
(14) Competitive Graduate Research Fellowship Program (Guideline 5400.3, December 23, 1974).
(15) Guidelines for the Graduate Research Program: National Criminal Justice Educational Development Consortium Institutions (Guideline 5400.3, January 27, 1975).
(16) Participation Criteria for Internship Program (Guideline 5500.1A, November 7, 1973).
(17) LEAA Visiting Fellowship Program (Guideline 6010.1, November 7, 1974).
(18) Use of LEAA Funds for Psychosurgery and Medical Research (Guideline 6060.1A, June 18, 1974).
(19) Comprehensive Data Systems Program (Manual 6640.1, April 27, 1976).
(20) Financial Management for Planning and Action Grants (Manual 7100.1A, April 30, 1973; Change—1, January 24, 1974; Change—2, December 18, 1974; Change—3, October 29, 1975).
(21) Principles for Determining Travel Cost Applicable to LEAA Grants (Guideline 7100.3A, January 28, 1976).
(22) Distribution, Resolution and Clearance of Audit Reports (Guideline 7140.1A, January 11, 1974).
(23) Reporting of Possible LEAA Fund Misuse, Criminal Activity, Conflict of Interest, or other Serious Irregularities (Guideline 7140.2, December 12, 1973).
(24) Construction Contracts—Equal Employment Opportunity Procedure for Submitting Information on Construction and Renovation Contracts (Guideline 7400.1B, June 4, 1974).
(25) The Effect on Minorities and Women of Minimum Height Requirements for Employment of Law Enforcement Officers (Guideline 7400.2A, June 18, 1974).
(26) Representation of Minorities and Women on Supervisory Boards of Criminal Justice State Planning Agencies and Regional Planning Units (Guideline 7400.4, August 19, 1974).
(27) Addresses of LEAA Regional Offices and State Planning Agencies (Guideline 1300.1F, April 22, 1976).
(28) Organization and Functions (Handbook 1320.1, February 20, 1975; Change—1, June 25, 1975).
(29) LEAA Directives System Handbook (Handbook 1332.1B, March 5, 1975).
(30) Dissemination of Grants Management Information Systems Data (Instruction 1340.1, February 1, 1974).
(31) LEAA Mailing Lists and Categories (Instruction 1441.1B, September 18, 1975).
(32) Procedure for Requesting Personnel Actions Under the Inter-Governmental Personnel Act (Instruction 1520.1, May 22, 1972).
(33) Procedures for Employment of Experts and Consultants in LEAA (Instruction 1520.4, November 30, 1973).
(34) Equal Employment Opportunity (Handbook 1563.1, January 12, 1973; Change—1, March 5, 1974; Change—2, July 15, 1975).
(35) Establishing Contact with Female and Minority Candidates for Employment in LEAA Regional Offices (Instruction 1563.2, July 23, 1975).
(36) Procedures for Processing Complaints of Discrimination Based on Race, Color, Sex, Age and National Origin (Instruction 1563.3A, May 18, 1976).
(37) Procurement References Library (Instruction 1701.5, May 18, 1973).

(38) Planning Grant Review and Processing Procedures (Handbook 4210.-1C, May 17, 1976).

(39) Categorical Grant Processing Procedures (Handbook 4560.1A, October 23, 1975).

(40) Law Enforcement and Criminal Justice Training Programs—Section 402 (b)(6) (Instruction 5700.1, November 9, 1973).

(41) Applicability of the Guideline Manual for the Financial Management for Planning and Action Grants (Instruction 7100.2, July 1, 1974).

(42) Equal Employment Opportunity Programs (Instruction 7400.3, February 13, 1974).

(m) *Offices of the Attorney General and the Deputy Attorney General.* (1) Letters to Congress specifically outlining Freedom of Information policies and procedures.

(2) Annual Report to Congress concerning the implementation of the Freedom of Information Act.

(3) Final determinations by the Attorney General and/or the Deputy Attorney General on Freedom of Information appeals.

(4) Synopses of Department of Justice applications of exemptions in the Freedom of Information Act, pursuant to administrative appeals filed under the provisions of that Act.

(5) Miscellaneous memoranda.

(n) *Office for Improvements in the Administration of Justice.* (1) Guidelines relating to use of statutory provisions to compel testimony or production of information.

(o) *Office of Legal Counsel.* (1) Opinions of the Attorney General; bound volumes and slip opinions.

(p) *Office of Legislative Affairs.* (1) Index of speeches, testimony, remarks of Attorney General, Deputy Attorney General and other officers and employees of the Department. The material is compiled chronologically, beginning with the 92d Congress, and is cumulative.

(2) Index of reports to Congress on pending legislation. The material is compiled numerically according to bill number, beginning with the 92d Congress, and is cumulative.

(3) Index of Congressional correspondence which sets forth official Department policies and positions. The material is listed by the writer's name, beginning about June, 1974, and is cumulative.

(q) *Office of Management and Finance.* (1) Final Decisions in Discrimination Complaints against the Department.

(2) Decisions on Adverse Actions and Discipline of Personnel.

(3) Decisions on Classification Appeals.

(4) Personnel Management Plans.

(5) EEO Affirmative Action Plans.

(6) Order DOJ 0000.4H, Directives Index as of March 31, 1976—Bureaus. (This material covers more than one component.)

(7) Order OBD 0000.1B, Directives Index as of March 31, 1976—Offices, Boards, Divisions, and Division Field Offices. (This material covers more than one component.)

(r) *Office of Public Information.* Room 5114, Justice Building, 10th and Constitution Avenue NW., Washington, D.C.:

(1) Speeches. Cumulative. Contains listing of speeches by Attorneys General, Assistant Attorneys General, Deputy Attorneys General, and Deputy Assistant Attorneys General.

(2) Press Releases, Testimonies, Statements. Cumulative. Contains listing of press releases and statements of policy issued by the Department; testimonies before the Congress by heads of the Department, Divisions, Offices, Boards and Bureaus.

(s) *Office of Watergate Special Prosecution Force.* (1) Memorandum of Understanding Re Handling of Internal Revenue Matters Arising in Connection with Investigation and Prosecution of 18 U.S.C. 610 (Illegal Corporate Contributions) Matters.

(2) Press Releases (two regarding general policy toward violations of 18 U.S.C. 610).

(3) Statement on Violations of 18 U.S.C. 611.

(t) *Tax Division.* (1) Guide for the Preparation of Written Communications in the Tax Division.

(2) Institute on Criminal Tax Trials, 1975.

(3) Manual for Criminal Tax Trials.

(4) Organization, Operation and Procedure Manual.

(5) Tax Division Uniform System of Citation and Instructions on Briefs.

(6) United States Attorneys' Guide; Policies Affecting the Processing of Tax Fraud Cases.

(7) Policy statement regarding interrogation of jurors after trial and the obtaining of name checks on jurors (November 29, 1967).

(8) Policy statement regarding name checks of witnesses in civil and criminal tax cases (November 29, 1967).

(9) Memorandum from the Assistant Attorney General, Tax Division, outlining the policy on tax prosecution press releases (January 12, 1971).

(10) Memorandum from the Assistant Attorney General, Tax Division, regarding prevention of the departure of aliens who have failed to obtain a certificate of compliance from the Internal Revenue Service (May 9, 1972).

(11) Memorandum from the Assistant Attorney General, Tax Division, setting forth procedures for mailing of complaints in tax refund suits (January 5, 1973).

(12) Memorandum from the Assistant Attorney General, Tax Division, establishing guidelines concerning the use of post-trial motions for judgment n.o.v. (January 2, 1974).

(13) Policy statement regarding inspection of tax returns of members of the federal judiciary (February 6, 1974).

(14) Memorandum from the Assistant Attorney General, Tax Division, elaborating upon the policy statement regarding inspection of tax returns of members of the federal judiciary (February 8, 1974).

(15) Memorandum from the Attorney General regarding statutory restrictions on the disclosure of income tax returns (April 24, 1974).

(16) Policy statement regarding opposing attorneys who act as counsel and witness (August 7, 1974).

(17) Policy statement regarding attorney participation on A.B.A. Tax Section Committees (August 7, 1974).

(18) Memorandum from the Assistant Attorney General, Tax Division, concerning procedures in transmitting to the Tax Division complaints filed in tax refund suits (June 23, 1975).

(19) Policy statement regarding refund suits arising during a pending criminal case (February 18, 1975).

(20) Letter from Assistant Attorney General, Tax Division, regarding Reluctant Witness Grand Jury Proceedings (February 12, 1975).

(u) *United States Marshals Service.* (1) Outline of the Office of United States Marshal.

(2) United States Marshals Service.

(3) Women in the U.S. Marshals Service.

(4) The Marshal Today (updated annually).

GRIFFIN B. BELL,
Attorney General.

MARCH 8, 1977.

[FR Doc.77-8337 Filed 3-18-77;8:45 am]

Office of the Attorney General

[Order No. 705-77]

PRIVACY ACT OF 1974

System of Records

Notice is hereby given that pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a) the Department of Justice proposes to add routine uses to, and expand the retrievability capacity of a portion of an existing system of records maintained by the Immigration and Naturalization Service (INS), JUSTICE/INS-001, The Immigration and Naturalization Service Index System.

A. Pursuant to Section 3(e)(4) of the Privacy Act (5 U.S.C. 552a(e)(4)), notice of the existence of this system JUSTICE/INS-001, The Immigration and Naturalization Service Index System, was published in the FEDERAL REGISTER, 41 FR 39986. The proposed modification will enable employees in field offices of the Immigration and Naturalization Service to access, by means of cathode-ray terminals, automated portions of the subsystem of records known as "Centralized index and records relating to but not limited to, aliens lawfully admitted for permanent residence and United States citizens (Master Index)".

Amendments to the Notice of System of Records are listed as follows:

Categories of records in the system: Par. E is amended by adding the statement, "Records which may be accessed electronically are limited to index and file locator data including name, identi-

fying number, date and place of birth, date and port of entry, coded status transaction data, and location of relating records or files."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Part g is added, to read: "g. Centralized index records which can be accessed electronically are stored on magnetic disk and tape."

Access practices are added: *"Access:* a. Centralized index records stored on magnetic disk are accessed from remote terminals located in INS offices on the Department of Justice Telecommunications system (JUST)."

Retention and disposal: Par. p is added, to read: "p. Centralized index records stored on magnetic disk and tape are updated periodically and maintained for the life of the relating record. Original index cards are microfilmed, then destroyed."

The system notice, including the amendments listed above, is hereinafter reprinted in its entirety.

Report of the proposed modification has been made to the President of the Senate, the Speaker of the House of Representatives, the Office of Management and Budget, and the Privacy Protection Study Commission.

B. Section 3(e)(11) of the Privacy Act of 1974, 5 U.S.C. 552a(e)(11), requires each agency to publish a notice of proposed routine uses of records in the FEDERAL REGISTER and provide the opportunity for public comment thereon for at least 30 days prior to the adoption of such uses.

In accordance with this provision, attached is an amended notice of JUSTICE/INS–001, The Immigration and Naturalization Service Index System, which was previously published at 41 FR 39986 (September 16, 1976), adding two new routine uses for this system. It has been determined that these uses are compatible withe the purposes for which the system of records is maintained and no further reporting of these two routine uses will be made.

Proposed routine use "J" would permit the routine disclosure of informaton in the interests of national security, 8 U.S.C. 1225.

Proposed routine use "K" would permit the disclosure of information in connection with any proceeding before the Immigration and Naturalization Service, to counsel without the formal Privacy Act verification of identity. The use is consistent with the longstanding practice of the Service under 8 U.S.C. 1103 and 1362.

Inquiries or comments may be submitted in writing to the Office of Administrative Counsel, Room 1121, Office of Management and Finance, Department of Justice, Washington, D.C. 20530. All comments must be received on or before April 20, 1977.

No oral hearings are contemplated.

Dated: March 11, 1977.

GRIFFIN B. BELL,
Attorney General.

JUSTICE/INS–001

System name:

The Immigration and Naturalization Service Index system which consist of the following subsystems.

A. Agency information control record index.

B. Alien address report index.

C. Alien enemy index.

D. Automobile decal parking identification system for employees.

E. Centralized index and records relating to, but not limited to aliens lawfully admitted for permanent residence and United States citizens (Master index).

F. Congressional Mail Unit correspondence control index.

G. Document vendors and alterers index (Service documents).

H. Enforcement branch indices: (1) Air detail office index system; (2) Anti-smuggling index (general); (3) Anti-smuggling information centers systems for Canadian and Mexican borders; (4) Border Patrol Academy index; (5) Border Patrol sectors general index system; (6) Contact index; (7) Criminal, immoral, narcotic, racketeer, and subversive indices; (8) Enforcement correspondence control index; (9) Fraudulent document center index system; (10) Informant index; (11) Suspect third party index.

I. Examinations correspondence control index: (1) Branch indices; (2) Service lookout system;

J. Extension training program enrollees.

K. Finance section indices: (1) Accounts with creditors; (2) Accounts with debtors.

L. Freedom of Information correspondence control index.

M. Intelligence index.

N. Microfilmed manifest records.

O. Naturalization and citizenship indexes: (1) Naturalization and citizenship docket cards; (2) Examiner's docket lists of petitioners for naturalization; (3) Master docket list of petitions for naturalization pending one year or more.

P. Personnel investigations index.

Q. Procurement—property issued employees.

R. Security system access clearance information index system.

S. White House and Attorney General correspondence control index.

T. Health Record System.

U. Personal Data Card System.

V. Compassionate Cases System.

W. Emergency Reassignment Index.

X. Alien Documentation Identification and Telecommunication (ADIT) System.

System location:

A. Central Office: 425 'I' Street; N.W. Washington; D.C. 20536.

B. Regional Offices: (1) Burlington, Vermont; (2) Fort Snelling, Twin Cities, Minnesota; (3) Dallas, Texas; (4) San Pedro, California.

C. District Offices in the United States: (1) Anchorage, Alaska; (2) Atlanta, Georgia; (3) Baltimore, Maryland; (4) Boston, Massachusetts; (5) Buffalo, New York; (6) Chicago, Illinois; (7) Cleveland, Ohio; (8) Denver, Colorado; (9) Detroit, Michigan; (10) El Paso, Texas; (11) Hartford, Connecticut; (12) Helena Montana; (13) Honolulu, Hawaii; (14) Houston, Texas; (15) Kansas City, Missouri; (16) Los Angeles, California; (17) Miami, Florida; (18) Newark, New Jersey; (19) New Orleans, Louisiana; (20) New York, New York; (21) Omaha, Nebraska; (22) Philadelphia, Pennsylvania; (23) Phoenix, Arizona; (24) Portland, Maine; (25) Portland, Oregon; (26) St. Albans, Vermont; (27) St. Paul Minnesota; (28) San Antonio, Texas; (29) San Diego, California; (30) San Francisco, California; (31) San Juan, Puerto Rico; (32) Seattle, Washington; (33) Washington, D.C.

D. District offices in foreign countries: (1) Hong Kong, B.C.C.; (2) Mexico City, Mexico; (3) Rome, Italy.

E. Sub Offices: (1) Agana, Guam; (2) Albany, New York; (3) Cincinnati, Ohio; (4) Dallas, Texas; (5) Hammond, Indiana; (6) Harlingen, Texas; (7) Las Vegas, Nevada; (8) Memphis, Tennessee; (9) Milwaukee, Wisconsin; (10) Norfolk, Virginia; (11) Pittsburgh, Pennsylvania; (12) Providence, Rhode Island; (13) Reno, Nevada; (14) St. Louis, Missouri; (15) Salt Lake City, Utah; (16) Spokane, Washington.

F. Border Patrol Sector Headquarters: (1) Blaine, Washington; (2) Buffalo, New York; (3) Chula Vista, California; (4) Del Rio, Texas; (5) Detroit, Michigan; (6) El Centro, California; (7) El Paso, Texas; (8) Grand Forks, North Dakota; (9) Havre, Montana; (10) Houlton, Maine; (11) Laredo, Texas; (12) Livermore, California; (13) Marfa, Texas; (14) McAllen, Texas; (15) Miami, Florida; (16) New Orleans, Louisana; (17) Ogdensburg, New York; (18) Spokane, Washington; (19) Swanton, Vermont; (20) Tucson, Arizona; (21) Yuma, Arizona.

G. Border Patrol Academy—Los Fresnos, Texas.

H. Charlotte Amalie, St. Thomas, Virgin Islands.

I. Sub offices in foreign countries: (1) Athens, Greece; (2) Frankfurt, Germany; (3) Naples, Italy; (4) Palermo, Italy; (5) Rome, Italy; (6) Tokyo, Japan; (7) Vienna, Austria.

J. El Paso Intelligence Center (EPIC)—El Paso, Texas. Addresses of each office are listed in the telephone directories of the respestive cities listed above under the heading "United States Government, Immigration and Naturalization Service."

Categories of individuals covered by the system:

A. Agency information control record index (Location A, supra).

1. United States citizens, resident and non-resident aliens named in documents classified for National Security reasons.

2. Individuals referenced in documents classified for National Security reasons.

B. Alien address reports (Form I-53), 1975 and subsequent years. (Location A, supra); 1974 and previous years (Locations: C, D, and H supra).

C. Alien enemy index (Location: A supra):

1. Alien enemies who were interned during World War II.

2. Americans of Japanese ancestry (Nisei) who returned to Japan and, during World War II, either accepted employment by the Japanese Government or became naturalized in Japan.

D. Automobile decal parking identification for employees. (Location B-4 supra).

Current Service employees of this office who have the privilege of parking their cars on government premises, have a decal for their cars for parking identification.

E. Centralized index (Master index). (Locations: A, C, D, E and I supra):

1. Aliens lawfully admitted for permanent residence, and United States citizens; and individuals who are under investigation, were investigated in the past, or who are suspected of violating the criminal or civil provisions of treaties, statutes, Executive orders and Presidential proclamation administered by the Immigration and Naturalization Service, hereinafter referred to as the Service, and witnesses and informants having knowledge of such violations.

F. Congressional Mail Unit (Location A, supra):

1. Aliens lawfully admitted for permanent residence and United States citizens named in correspondence received including, but not necessarily limited to: (a) employees and past employees; (b) federal, state and local officials, and (c) members of the general public.

2. Aliens lawfully admitted for permanent residence and United States citizens named in reports or correspondence received, as individuals investigated in the past or under active investigations for, or suspected of violations of, the criminal or civil provisions of statutes enforced by the Service, including Presidental proclamations and Executive orders relating thereto, and witnesses and informants having knowledge of violations.

G. Document vendors and alterers index (Service documents) (Location B-4; duplicates are housed in several Service offices in the southwest region). This index relates to, but is not limited to, aliens lawfully admitted for permanent residence and United States citizens.

H. Enforcement Branch Indices:

1. Group one—(Locations: A, B, C and E, supra)—contact index; informant index; anti-smuggling index (General); criminal, immoral, narcotic, racketeer and subversive indices; and suspect third party index—all relate to same general categories of individuals as follows:

(a) Aliens lawfully admitted for permanent residence, and citizens who are in a position to know or learn of, and assist in locating aliens illegally in the United States.

(b) Aliens lawfully admitted for permanent residence, and citizens who are former or present members of an organization subversive in nature, whether foreign or domestic, and are willing to appear as government witnesses, to testify as to their knowledge of an individual's membership therein, or as to the nature, aims and purpose of the organization, or as to the identification, publication, distribution and authenticity of the literature of such organization, or are in possession of information relative to such organization or on specific individuals and are willing to cooperate with the Immigration and Naturalization Service, or who although they have not been members of subversive organizations, are in possession of information relating to such organizations or members thereof, and are willing to cooperate with the Service on a continuing basis;

(c) Aliens lawfully admitted for permanent residence, and citizens who are known or suspected of being professional arrangers, transporters, harborers, and smugglers of aliens, who operate or conspire to operate with others to facilitate the surreptitious entry of an alien over a coastal or land border of the United States and witnesses having knowledge of such matters;

(d) Aliens lawfully admitted for permanent residence and citizens who are known or suspected of being habitual or notorious criminals, immorals, narcotic violators or racketeers, or subversive functionaries or leaders;

(e) Aliens lawfully admitted for permanent residence, and citizens who are known, or believed, to be engaged in fraud operations involving the preparation and submission of visa petitions and other applications for Service benefits, or the preparation and submission of applications for immigrant visas and/or Department of Labor certifications, or the filing of false United States birth registrations for alien children to enable parents who are immigrant visa applicants to evade the labor certification requirements or to enable such children to pose as citizens.

2. Group two—relate to specific categories of individuals as follows:

(a) Air detail office index system (Location: J, supra). (1) The majority of the system contains information relating to United States citizens and aliens lawfully admitted for permanent residence who are pilots and/or owners of private aircraft and who have engaged in flying between the United States and foreign countries. (2) The system also contains information of an investigative nature relative to pilots, owners, and associates, including United States citizens and aliens lawfully admitted for permanent residence, who engage in, or are suspected of being engaged in, illegal activity, such as alien smuggling or entry without inspection.

(b) Anti-smuggling information centers for the Canadian border and Mexican border. (Location: Northern Border: F-19, supra—Southern Border: J, supra). Categories of individuals include United States citizens and aliens lawfully admitted for permanent residence who are smugglers or transporters of illegal aliens, or who are suspects in the violation of statutes relating to smuggling and transporting illegal aliens.

(c) Border Patrol Academy index system—(Location: G, supra). United States citizens who are: students in attendance at the Border Patrol Academy; former students who have attended the Academy; and officers attending advanced training classes at the Academy.

(d) Border Patrol Sectors general index—(Locations: F, supra). (1) United States citizens who are past or present employees of the Service; and (2) United States citizens and aliens lawfully admitted for permanent residence classified as law violators, witnesses, contacts, informants, members of the general public, federal, state, county and local officials.

(e) Fraudulent Document Center index system—(Location: J, supra). The system contains information relating to United States citizens and/or aliens lawfully admitted for permanent residence categorized as members of the general public, Notaries Public, state and local birth registration officials and employees, immigration law violators, vendors of documents, donors of documents, midwives and witnesses. Also included in the system are names and information of fictitious non-existent individuals such as may be used by counterfeiter or alterer of citizenship documents.

3. Group three—(a) Enforcement correspondence control index—(Location: A, supra—Associate Commissioner, Enforcement). (1) Aliens lawfully admitted for permanent residence and citizens of the United States named in correspondence received, including but not necessarily limited to: a. employees and past employees; b. federal, state, and local officials; and c. members of the general public. (2) Aliens lawfully admitted for permanent residence and citizens of the United States named in documents, reports or correspondence received as individuals under investigation, or investigated in the past, or suspected of violation of the criminal or civil provisions of the statutes enforced by the Service, including Presidential Executive Orders and Proclamations relating thereto, and witnesses and informants having knowledge of violations.

I. Examinations branch indexes (Location: A, supra (duplicates are in some local offices)). Aliens lawfully admitted for permanent residence and United States citizens and individuals who are violators or suspected violators of the criminal or civil provisions of statutes enforced by the Service.

J. Extension training program enrollees (Location: A, supra) contains the names of Service employees, and other federal agency employees enrolled in extension training program courses.

K. Finance Section indexes—(Locations: A and B, supra):

(1) Individuals who are indebted to the United States Government for goods, services, or benefits or for administrative fines and assessments;

(2) Employees who have received travel advances or overpayments from the United States Government, who are in arrear in their accounts, or who are liable for damage to Government property;

3. Vendors who have furnished supplies, material, equipment and services to the Government;

4. Employees, witnesses and special deportation attendants who have performed official travel; and

5. Employees and individuals who have a valid claim against the Government.

L. Freedom of Information correspondence control index (Locations: A; B; C; D; E; F; G; H and I, supra). Individuals who request under the Freedom of Information Act, access to, or copies of, records maintained by the Service.

M. Intelligence index—(Locations: A and B, supra) Aliens who have been lawfully admitted to the United States for permanent residence and United States citizens, who have, or who are suspected of having, violated the criminal or civil provisions of the statutes enforced by the Service.

N. Microfilmed manifest records—(Locations: A, C–26, C–10, C–20, and C–29, supra) Aliens lawfully admitted for permanent residence to the United States and United States citizens.

O. Naturalization and citizenship indexes:

(1) Naturalization and citizenship docket cards (Locations: C and E supra, except E–6, 7, 8 and 13). Aliens lawfully admitted for permanent residence and citizens of the United States, and other individuals seeking benefits under Title III of the Immigration and Nationality Act of 1952, as amended.

2. Examiner's docket lists of petitioners for naturalization. (Locations: C and E supra, Except E–6, 7, 8, and 13.) Petitioners for naturalization and beneficiaries.

3. Master docket list of petitioners for naturalization pending one year or more. (Locations: A, B, C and E supra, Except E–6, 7, 8 and 13.) Petitioners for naturalization and beneficiaries.

P. Personnel Investigations — (Location: A, supra) Employees, former employees, other Government agency employees designated to perform immigration functions, witnesses, informants, and certain persons having contacts with Service operations.

Q. Property issued to employees—(Locations: A, B, C, E and F, supra). Employees of the Service who have been issued property and have in addition signed for receipt of the property on Form G–570.

R. Security system — (Location: A supra). United States citizens and aliens lawfully admitted for permanent residence to the United States currently employed with the Service who have been cleared for access to documents and materials classified in the interest of National Security.

S. White House and Attorney General correspondence control index—(Location: A, supra). Citizens and aliens lawfully admitted for permanent residence to the United States named in correspondence received, including, but not necessarily limited to: (a) employees and past employees of the Service; (b) federal, state and local officials; and (c) members of the general public.

T. Health Record System (Location: A, supra). Persons at Location A, supra, who need health services or who require emergency treatment.

U. Personal Data Card System (Locations: A and B, supra). Employees and former employees of the Service.

V. Compassionate Cases System. (Locations: A and B–1 and 4, supra) Employees of the Service.

W. Emergency Reassignment Index (Locations: B, C, E and F). Employees of the Service.

X. Alien Documentation, Identification, and Telecommunication (ADIT) system—(Location A, supra). Aliens lawfully admitted for permanent residence, commuters and others authorized frequent border crossings, nonimmigrant persons other than transients.

Categories of records in the system:

A. Agency information control record index system contains:

1. Top secret and secret material originated, received or transmitted by Service officers that has been classified as National Security information including all copies prepared from a controlled document.

2. Confidential material originated by another agency which is received by this Service including all copies prepared from a controlled document.

3. All investigative reports, responses to security checks, and material of an intelligence nature concerning individuals, organizations, movements, conditions in foreign countries, received from sources within the Department of Justice and other federal intelligence sources.

B. Alien address report index. This system contains information such as name, address, occupation, date of admission into the United States and Alien Registration number.

C. Alien enemy index. This system contains a microfilm index of each file opened on these individuals.

D. Automobile decal parking identification system for employees vehicles. This system contains a list by number of each DJ decal car sticker issued by the Security Division to regional employees who require car parking permission.

E. Centralized index and records relating to permanent resident aliens, and citizens of the United States (Master index). The system consists of records relating to the categories of individuals described in E–1, supra. The records contain various Service forms, applications and petitions for benefits under the immigration and nationality laws, reports of investigation, sworn statements, and reports, correspondence and memoranda.

Records which may be accessed electronically are limited to index and file locater data including name, identifying number, date and place of birth, date and port of entry, coded status transaction data, and location of relating records or files.

F. Congressional mail unit. This system contains a permanent index record for each report or piece of correspondence received. Information maintained in the index of this subsystem is that which is entered on a 3" x 5" index card. The index record is solely a locator reflecting the name of the individual and the number of the file in which specific information concerning the individual is maintained.

G. Document vendors and alterers index (Service documents). This system consists of "mug book" containing photos of alleged immigration law violators involved in the supply of fraudulent documents, and data relating to the pictured violators including: name, aliases, vital statistics, method of operation, list of convictions, present location, and source material.

H. Enforcement branch.

1. Group one—contact index; informant index; anti-smuggling index (general); criminal, immoral, narcotic, racketeer and subversive indices; and suspect third party index: These systems of records are maintained on the following.

(a) Form G-598, "Contact Record".

(b) Form G-169, "Informant Record."

(c) Form G-170, "Smuggler Information Index Card".

(d) Alphabetical index cards reflecting the name of the individual and the file in which specific information concerning the individual is housed. Some index cards reflect the individual's biographic data, address, etc., and may contain a brief description of the individual's activities.

2. Group two. (a) Air detail office index. The primary record in the system is Form I–92A, Report of Private Aircraft Arrival, which is executed by the inspecting official upon arrival of a private aircraft from foreign territory. There are also indices, forms, investigative reports, records, and correspondence relative to aircraft arrivals, failure to report for inspection, and known or suspected alien smuggling operations wherein aircraft are utilized. In addition, microfiche containing names of owners of aircraft of United States registry are maintained at this location.

(b) Anti-smuggling information centers for the Canadian and Mexican borders. This system contains G–170, Smuggler Information Index Card, other index cards, and correspondence relating to anti-smuggling activities. Two indices of active smugglers are compiled, one for the Canadian border and the other border for the Mexican border area. These indices are in loose leaf booklet form and are distributed to Border Patrol offices in the respective border areas.

(c) Border Patrol Academy index. This system contains general information and correspondence regarding the student's academic progress in training. The information is maintained on the following forms. (1) SW 91—Probationary Achievement Report. (2) SW 91A—Scholastic Grade Worksheets. (3) SW 91B–10 BTC Achievement Report Immigration Inspector. (4) SW 91C–10 BTC Achievement Report Investigator. (5) SW 96—Class Rating Form. (6) SW 128—Training Data. (7) SW 282—Registration Information Form. (8) 446—Conduct and Efficiency Report of Probationary Employee 5½ and 10 months exam grades.

(d) Border Patrol sectors general index. (1) This system contain indices, forms, reports and records relating to activities of the Border Patrol. Included in the various segments of the system are the following numbered and titled forms: a. Form I-44—Record of Apprehension or Seizure; b. Form I-215W—Affidavit—witness; c. Form I-263A and I-263B—Record of Sworn Statement; d. Form I-195—Criminal Prosecution Control Card; e. Form I-263W—Records of Sworn Statement—witness; f. Form I-326—Prosecution Reports; g. Form G-170—Smuggler Information Index Card; h. Form G-296—Report of Violation of Section 239, Immigration and Nationality Act; i. Form G-330—Notice of Action Information; j. Form G-445—Conduct and Efficiency Evaluation of Probationary Appointees; and k. Form G-598—Contact Record. (2) This system also contains copies of correspondence and memoranda between offices of the Service and with outside agencies and individuals, as well as photographs of some violators of the immigration laws or of individuals suspected of being involved in immigration law violations. (3) The Service lookout book and booklets of indexes of active smugglers are at each location; however, these are duplicated records which are reported separately in other systems of records.

(e) Fraudulent document center index. This system contains birth certificates, baptismal certificates, and other indentification documents used by aliens to support their fraudulent claims to United States citizenship. Most of the documents are genuine, however, there are also counterfeit and altered documents in the system. Also within the system are cross indexes investigative reports, and records of individuals involved in fraud schemes and of individuals whose documents have been put to fraudulent usage. Correspondence and memoranda, between the Fraudulent Document Center and other Service Offices, outside agencies and individuals are retained.

3. Group three—(a) Enforcement correspondence control index. This system contains a semi-permanent index record for each document, report or piece of correspondence received. Information maintained in the system is that which is entered on Form G-617, "Correspondence Control Card", and CO Form 147, "Call-Up Index—Domestic Control." The index record is primarily a locator reflecting the name of the individual and the file in which specific information concerning the individual is housed.

I. Examinations branch:

(1) Examinations correspondence control index: contains a semi-permanent index record for each document, report or piece of correspondence received. Information maintained in the system is that which is entered on Form G-617, "Correspondence Control Card". The index record is primarily a locator reflecting the name of the individual and the file in which specific information concerning the individual is housed.

(2) Service lookout system contains names of violators, alleged violators and suspected violators of the criminal or civil provisions of statutes enforced by the Service.

J. Extention training program enrollees. The system contains a folder for each enrollee. Each folder contains a complete record of the enrollee's test scores, correspondence and dates of every action taken with regard to the mailing of lesson materials, receipt of tests, scoring and mailing out test results and dates certificates were completed and mailed

K. (1) Accounts with creditors. The records consist of vendors' invoices, purchase orders, travel vouchers and claims filed by appropriation for the fiscal year from which payment is chargeable.

(2) Accounts with debtors. The records consist of bills for inspection services performed under the Act of March 2, 1931 (8 U.S.C. 1353a); fees, fines, penalties and deportation expenses assessed pursuant to the Immigration and Nationality Act; and employee indebtedness for travel advances, for the unofficial use of Government facilities and services, for damage to or loss of Government property, and for the erroneous or overpayment of compensation for travel expenses.

L. Freedom of Information correspondence control index. The system contains an index record for each piece of correspondence received requesting information under the Freedom of Information Act.

M. Intelligence index. This system contains a semi-permanent index record for each document, report, bulletin or correspondence received. The index is categorized by name, violation, and activity. The index is primarily a locator reflecting the category, source of material and specific housing of information.

N. Microfilmed manifest records. Microfilmed indices, and arrival and departure manifests reflecting brief biographical data and facts of arrival or departure. The arrival records for certain ports date from 1891 and departure records date from 1900. The records are not complete; certain records were destroyed and were not microfilmed.

O. (1) Naturalization and citizenship docket cards. Docket cards consist of 3" x 5" or 5" x 8" index cards arranged alphabetically according to name of applicant, beneficiary or petitioner, indicating type of application submitted, date of receipt, file and/or petition number, and court number wherein petition for naturalization was filed. The docket cards are locators for the files in which specific information concerning the individuals is maintained.

(2) Examiner's docket lists of petitioners for naturalization. Lists of petitioners for naturalization (Form N-476) are arranged chronologically for each court exercising naturalization jurisdiction, showing petition number, petition filing date, file number, court number, name of petitioner for naturalization, name of beneficiary in whose behalf a petition is filed, proposed recommendation by the naturalization examiner and reasons for the continuance. The lists serve as locators for the files in which specific information concerning the petitioners is maintained.

(3) Master docket lists of petitions for naturalization pending one year or more. Master docket lists of petitions for naturalization (Form N-476) pending for a year or more are arranged chronologically for each court exercising naturalization jurisdiction showing the petition number, petition filing date, petitioner's name, recommendation and issues and reason why petition is still pending. The lists serve as locators for the files in which specific information concerning the petitioners is maintained.

P. Personnel investigations index. Contains two separate card index files, one for cases under active investigation, and the other for formerly active cases now closed. These cards are locator cards listing names of investigation subjects, their locations, and the allegations under investigation. Two relating sets of temporary work folders exist housing open closed allegations of misconduct and investigative reports.

Q. Property issued to employees. The records consist of a Form G-570, 'Record-Receipt-Property Issued to Employee,' which lists property issued to an employee. The Form G-570 lists the employee's name, description of the property, serial number, date received and employee's initials, and finally date returned and supervisor's initials.

R. Security system index. The system is comprised of 3' x 5' index cards filed alphabetically which reflect levels of access clearances granted to employees of the Service and the dates when the clearances were granted.

S. White House and Attorney General correspondence control index. Contains an index record for each piece of correspondence addressed to the President and the Attorney General, with certain exceptions, which has been referred to this Service for appropriate attention. Information maintained in the system is that which is entered on Form G-617, "Correspondence Control Card." The index record is primarily a locator reflecting the name of the correspondent and/or the subject individual of the correspondence and the file in which specific information concerning the individual is housed.

T. Health Record System. The record consists of a 5' x 7' index card that lists the name, date and treatment given any person in the Health Unit.

U. Personal Data Card System. The record consists of a 3' x 5' card for each employee or former employee (G-74). The entries on the card (G-74) include name, date of birth, height, weight, sex, blood type, photograph, and color of hair and eyes.

V. Compassionate Cases System. The record consists of 3" x 5" index card containing employee's name, position, grade, present location, date request received in Central Office, date circulated to compassionate committee, disposition, new location of employee whose request is granted; and a folder containing copy of employee's Form G-410, employee's request (memo), local and regional recom-

mendations, doctor's statement (where applicable), record of committee action, and response to employee.

W. Emergency Reassignment Index. The record consists of a 3" x 5" card (G-560) which reflects the name, age, grade, title, official station, residence, telephone number and emergency assignment activity.

X. Alien Documentation, Identification and Telecommunication (ADIT) system. The records consist of formatted data base records of personal and biographical information such as name, date of birth, picture and fingerprint coordinates, height, mother's first name, father's first name, city/town/village of birth.

Authority for maintenance of the system:

A. General, applicable to all Service index systems, includes but is not limited to: Sections 103, 265 and 290 and Title III of the Immigration and Nationality Act, hereinafter referred to as the Act (66 Stat. 163), as amended, (8 U.S.C. 1103; 8 U.S.C. 1305; 8 U.S.C. 1360), and the regulations pursuant thereto.

B. Specific, applicable to some of the indices, including but not limited to: (1) Executive Order 11652, and 28 C.F.R. 17.79—agency control information record index, and access clearance information system. (2) 31 U.S.C. 66a—Finance branch indices. (3) Title III of the Act, as amended, (8 U.S.C. sections 1401 through 1503), and the regulations promulgated thereunder — naturalization and citizenship indices. (4) Sections 235 and 287 of the Act, as amended, (8 U.S.C. 1225; and 8 U.S.C. 1357), and the regulations promulgated pursuant thereto in personnel investigations. (5) Section 231 of the Act, as amended, (8 U.S.C. 1221)— manifest records. (6) 40 U.S.C. 483— property management system. (7) 5 U.S.C. 4113—extension training program. (8) 5 U.S.C. 552. The Freedom of Information Act, requires certain record keeping, this system was established and is maintained in order to enable the Service to comply with this requirement. (9) 5 U.S.C. 301—Health Record System, Personal Data Card System, and Compassionate Cases System. (10) Executive Order 11490—Emergency Reassignment Index.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

This system of records is used to serve the public by providing data for responses, when authorized, to written inquiries, complaints, and so forth. It is also used to administer the management, operational, and enforcement activities of the Service. The records are used by officers and employees of the Service and the Department of Justice in the administration and enforcement of the immigration and nationality laws, and related statutes, including the processing of applications for benefits under these laws, detecting violations of these laws, and for referrals for prosecution.

A. Relevant information contained in this system of records maintained by the Service to carry out its functions may be referred, as a routine use, to clerks and judges of courts exercising naturalization jurisdiction for the purpose of filing petitions for naturalization and to enable such courts to determine eligibility for naturalization or grounds for revocation of naturalization.

B. Relevant information contained in this system of records maintained by the Service to carry out its functions may be referred, as a routine use, to the Department of State in the processing of petitions or applications for benefits under the Immigration and Nationality Laws Act, and all other immigration and nationality laws, including treaties and reciprocal agreements.

C. Relevant information contained in this system of records maintained by the Service to carry out its functions may be provided, as a routine use, to other federal, state, and local government law enforcement and regulatory agencies, foreign governments, the Department of Defense, including all components thereof, the Department of State, the Department of the Treasury, the Central Intelligence Agency, the Selective Service System, the United States Coast Guard, the United Nations, Interpol, and individuals and organizations during the course of investigation in the processing of a matter or a proceeding within the purview of the immigration and nationality laws, to elicit information required by the Service to carry out its functions and statutory mandates.

D. In the event that this system of records maintained by the Service to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

E. In the event that this system of records maintained by the Service to carry out its functions indicates a violation or potential violation of the immigration and nationality laws, or of a general statute within Service jurisdiction, or by regulation, rule, or order issued pursuant thereto, the relevant records in this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal and to opposing counsel in the course of discovery.

F. A record from this system of records may be disclosed, as a routine use, to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

G. A record from this system of records may be disclosed, as a routine use, to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision of this Service concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

H. Indication of a violation or potential violation of the laws of another nation, whether civil or criminal, may be referred to the appropriate foreign agency charged with the responsbility of investigating or prosecuting such violation or charged with enforcing or implementing such laws; indication of any such violation or potential violation may also be referred to international organizations engaged in the collection and dissemination of intelligence concerning criminal activity.

I. Relevant information contained in this system of record may be disclosed, as a routine use, to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

J. A record from this system may be disclosed to other Federal agencies for the purpose of conducting national intelligence and security investigations.

K. Information contained in this system of records may be disclosed to an applicant, petitioner or respondent or to his or her attorney or representative (as defined in 8 CFR 1.1(j)) in connection with any proceeding before the Service.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

General.

Storage:

Generally, information is stored manually; in some instances, in automated index systems. The actual records relat-

ing to individuals are stored in file folders at the addresses located in locations A, B, C, E, F, and H, supra.

Retrievability:

In general, records are indexed alphabetically by name and/or 'A' file number or petition and court number, some include date and port of entry. Access: most systems are accessed manually. In some cases, index records may be accessed electronically from remote terminals.

Safeguards:

Each system of records is safeguarded and protected in accordance with Department of Justice and Service rules and procedures.

Retention and disposal:

a. The period of retention for alien registration records is 100 years from the closing date or date of last action.

b. Materials retained in correspondence portion of subject files are normally retained no longer than two years and are then either microfilmed or destroyed by burning.

c. Materials retained in policy portions of subject files are retained indefinitely.

d. Indexes and records not enumerated above are generally retained only so long as they serve a useful purpose.

e. Microfilmed manifest records are retained permanently.

f. Freedom of Information Act index cards and materials kept in the correspondence portion of files are retained for one year; the disposal is by burning, shredding or pulverizing.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Exceptions to the general practices above:

Storage:

a. Air detail office index systems. Forms I–92 are filed in rotary index machines by calendar year. Suspect files are in letter size cabinets, both are operated manually.

b. Alien address reports, I–53, are microfilmed from 1975 and subsequent. In 1973 and 1974 they are filed in cabinets in Service offices and in Federal Record Centers.

c. Alien enemy index information is maintained in the system and is on microfilm. The actual files are stored in Federal Record Centers.

d. Intelligence indices are stored, not by name, but by organization, activity or violation.

e. Some systems are stored numerically, or by subject, or by court and petition number or time sequence, as well as alphabetically.

f. Alien Documentation, Identification and Telecommunication (ADIT) system information is stored on magnetic tape and disk. Original forms completed by the individuals to whom the records pertain are filed with other records in subsystem E, "Centralized index and records."

g. Centralized index records which can be accessed electronically are stored on magnetic disk and tape.

Access:

a. Centralized index records stored on magnetic disk are accessed from remote terminals located in INS offices on the Department of Justice Telecommunications System (JUST).

Retrievability:

Aircraft data is filed in numerical sequence (air detail office index system).

Retention and disposal:

a. Access clearance index is maintained on a current basis. Cards forms completed by the index are destroyed upon the resignation, death or retirement of the employee.

b. Air detail office index, Form I–92A, forms information is retained for 5 years.

c. Border Patrol examination papers are destroyed 6 months after the trainee officer completes his probationary year.

d. Finance indices: Accounts with creditors and debtors are retained by the Service for 2 years from the close of the fiscal year to which they relate and are then transferred to the Federal Record Centers pending their ultimate disposition. The records are disposed of in accordance with General Service Administration regulations.

e. Intelligence indices: Intelligence bulletins are retained indefinitely.

f. Index Form G–617 is maintained for three years, then destroyed. However, in the White House and Attorney General Correspondence Indexes, form G–617 information is retained through the administration of each President and one year beyond.

g. Index Form CO–147 is maintained until the subject matter is finally acted upon and is then destroyed.

h. Personnel investigations are generally destroyed in June of the year following the one year anniversary of the close of the investigation. Operation Clean Sweep cases are being retained as a package until the program is terminated. Criminal matters of unusual sensitivity are retained as long as there is a useful need.

i. Health Unit records: The records are retained for a period of 6 years after the date of the last entry therein. The records are disposed of by burning, shredding, macerating or pulverizing.

j. Indexes relating to law violators and witnesses are retained for 3 years and then destroyed. General correspondence is retained for no longer than 2 years. Investigative matters of a routine nature may be disposed of when the investigation is closed. Information on present and past employees is retained only as long as such information serves a useful purpose.

k. Naturalization examiners docket lists and master docket lists of petitioners for naturalization are retained for two years, disposal is by tearing, shredding, pulverizing, or burning. Naturalization and citizenship docket cards are purged after applications are rejected, closed, petitions non-filed, applications granted or denied, or petitions for naturalization granted, or denied, the disposal is by tearing the cards.

l. Personal Data Card System: The record is retained for a period of 3 years after an employee is separated and then destroyed (Location: A, supra). The record is retained until an employee is separated and then destroyed (Location: B, supra). The records are disposed of by burning, shredding, macerating or pulverizing (Locations: A and B, supra).

m. Compassionate Cases System: The records are retained for 3 years and then destroyed. The records are disposed of by burning, shredding, macerating or pulverizing.

n. Emergency Reassignment Index: The records are retained on a current basis and are destroyed upon the transfer, separation, retirement or death of the employee. The records are destroyed by burning.

o. Alien Documentation, Identification and Telecommunication (ADIT) system records are maintained until naturalization, death or other material change in status of the individual, or until the registration card is relinquished.

p. Centralized index records stored on magnetic disk and tape are updated periodically and maintained for the life of the relating record. Original index cards are microfilmed, then destroyed.

System manager(s) and address:

A. The system manager, service-wide is the Associate Commissioner, Management (Location: A supra)

B. The Associate Commissioner, Management is the sole manager of the following systems: (1) Agency information control record index; (2) Alien address report (I–53); (3) Alien enemy index; (4) Centralized index (Master index); (5) Congressional mail unit index; (6) Document veendors and alters; (7) Enforcement correspondence control index; (8) Examinations correspondence control index; (9) Finance unit indexes; (10) Freedom of Information Act correspondence control index; (11) Intelligence indexes; (12) Microfilmed manifest records; (13) Property issued to employees; (14) Access clearance information system; (15) White House and Attorney General correspondence control index; (16) Health Record System; and (17) Alien Documentation, Identification and Telecommunication (ADIT) system.

C. The following official for Service personnel investigations: Director, Internal Investigations (Location: A supra).

D. The following officials (for inquiry for special need) by category:

(1) Alien address reports for portion of system maintained: (a) Associate Commissioner, Management; (b) District Directors (Locations: C supra); and/or (c) Officers in Charge—(Locations:—E supra).

(2) Investigation units indices for: Contact index; enforcement index; anti-

smuggling index (general); criminal, immoral, narcotic, racketeer and subversive indices; and suspect third party index, the managers are the ranking Service officer, of the Service offices in which such indices are maintained—(Location: A, B, C and E supra).

(3) Border Partol unit indices. (a) Air detail office index: Deputy Director (Location: J, supra). (b) Anti-smuggling information center: (1) Canadian Border: Chief Patrol Agent (Location: F-19 supra); and (2) Mexican Border: Deputy Director (Location: J, supra). (c) Fraudulent Document Center: Deputy Director (Location: J, supra). (d) Border Patrol Academy: Chief Patrol Agent (Location: G supra). (e) Border Patrol sector general indices: Chief Patrol Agent (Location: F-1 thru 21 supra).

(4) Assistant Regional Commissioner, Security (Location: B-4 supra) For automobile decal identification system.

(5) Chief, Employee Development Branch. Office of Assistant Commissioner, Personnel (Location: A supra) for extension training program enrollee file.

(6) Naturalization and Citizenship indexes. (a) Naturalization and citizenship docket cards: District Directors and Officers in Charge (Locations: C and E supra, except E-6, 7, 8 and 13). (b) Docket lists of Petitioners for Naturalization Form N-476: District Directors and Officers in Charge (Locations: C and E supra, except E-6 and 8). (c) Docket lists of petitions pending at least one year (Form N-476): The Associate Commissioner Mgt. (Location: A supra), Regional Commissioners (Location: B supra), District Directors and OIC's (Locations: C and E supra, except E-6, 7, 8 and 13).

(7) Personal Data Card System: Associate Commissioner, Management (Location: A supra); Regional Commissioners (Location: B supra).

8. Compassionate Cases System: Associate Commissioner, Management (Location: A, supra); Regional Commissioners (Locations: B-1 and 4, supra).

9. Emergency Reassignment Index: Regional Commissioners (Location: B, supra); District Directors (Location: C, supra); Officers in charge (Location: E, supra); and Chief patrol agents (Location: F, supra).

Notification procedure:

A. Address inquiries to the respective systems managers listed in System Manager supra, except Finance unit inquiries shall be addressed to the office of the Service at which the individual did business (for locations see Location supra) and Freedom of Information Act inquiries shall be addressed to the office of the Service nearest the requestor's place of residence or if known, the office of the Service where the requestor knows his record is located.

B. Systems totally exempt from disclosure pursuant to 5 U.S.C. 552a (j) and (k).

(1) Agency information control index system; (2) Anti-smuggling index (general); (3) Anti-smuggling information centers system for Canadian and Mexican Borders; (4) Contact index; (5) Criminal, immoral, narcotic, racketeer and subversive indexes; (6) Document vendors and alterers index; (7) Informant index; (8) Intelligence indexes; (9) Service look out system; (10) Suspect third party index; (11) Emergency Reassignment Index.

Record access procedures:

In all cases, requests for access to a record from any record subsystem shall be in writing or in person; if request for access is made in writing, the envelope and letter shall be clearly marked "Privacy Access Request". The requester must include a description of the general subject matter and, if known, the relating numerical identifier. The request must also include sufficient data to identify a relating record, such as the individual's full name, date and place of birth, and if appropriate, the date and place of entry into the United States, or departure from the United States. The requester shall also provide a return address for transmitting the information. Most of the systems contain records which the Attorney General has exempted from disclosure pursuant to 5 U.S.C. 552a (j) and (k) and records which are classified pursuant to Executive order. The requester will be accorded access to the records relating to himself only to the extent that such records are not within the scope of exemptions and are not classified.

Contesting record procedures:

Any individual desiring to contest or amend information maintained in the system should direct his request to the office of this Service nearest his residence, or in which he believes a record concerning him may exist, (see Notification, supra), stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

Record source categories:

The basic information contained in these records is supplied by the individual on Department of State and Service applications and reports; inquiries and/or complaints from members of the general public, members of the Congress; referrals of inquiries and/or complaints directed to the White House or to the Attorney General by members of the general public; Service reports of investigation, sworn statements, correspondence and memoranda; official reports, memoranda and writing referrals from other government agencies, including Federal, state and local; from the various courts and regulatory agencies; and information from foreign government agencies and international organizations.

The source of the data in the Freedom of Information Act correspondence control index is those individuals who seek information under the Act.

The information contained in the Emergency Reassignment Index is supplied by the individual and the Associate Commissioner, Management.

Nearly all the systems contain information received from sources which are exempted from disclosure pursuant to 5 U.S.C. 552a (j) and (k).

Systems exempted from certain provisions of the act:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e) (4) (G), (H) and (I), (e) (5) and (8), (f), (g), (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the FEDERAL REGISTER.

[FR Doc.77-7991 Filed 3-18-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Marketing Order No. 905]

SHIPPERS ADVISORY COMMITTEE

Postponement of Public Meeting

The meeting of the Shippers Advisory Committee established under Marketnig Order No. 905 (7 CFR Part 905) originally scheduled for March 22, 1977 (42 FR 12897), is postponed until April 5, 1977. The meeting will be held in the A. B. Michael Auditorium of the Florida Citrus Mutual Building, 302 South Massachusetts Avenue, Lakeland, Florida, at 10:30 a.m., local time. This notice is issued pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act (86 Stat. 770). Marketing Order No. 905 regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida and is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The committee now reports that the present regulations are appropriate to the prevailing demand situation and requests that the meeting scheduled for March 22 be delayed until April 5, 1977.

The meeting will be open to the public and a brief period will be set aside for public comments and questions. The agenda of the committee includes analysis of current information concerning market supply and demand factors, and consideration of recommendations for regulation of shipments of the named fruits.

The names of committee members, agenda, summary of the meeting and other information pertaining to the meeting may be obtained from Frank D. Trovillion, Manager, Growers Administrative Committee, P.O. Box R, Lakeland, Florida 33802; telephone 813-682-3103.

Dated: March 17, 1977.

WILLIAM T. MANLEY,
Deputy Administrator,
Program Operations.

[FR Doc.77-8454 Filed 3-18-77;8:45 am]

Agricultural Research Service

GENERAL CONFERENCE COMMITTEE OF THE NATIONAL POULTRY IMPROVEMENT PLAN

Public Meeting

Pursuant to the provisions of the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–779) notice is hereby given that a public meeting of the General Conference Committee of the National Poultry Improvement Plan will be held on April 20–21 in room 6451, South Agriculture Building, Washington, D.C. The meeting is open to the public and will convene at 9:00 a.m. on the 20th and adjourn at Noon on the 21st. Members of the public may submit comments before or after the meeting.

One purpose of this meeting is to act on a recommendation made by the delegates to the 1976 National Poultry Improvement Plan Conference that the General Conference Committee develop recommendations for reducing Salmonellae in poultry and poultry products. Based on a resolution by the delegates to this same Conference, the General Conference Committee will conduct a study on uniform shipping labels, showing the Salmonella pullorum and S. gallinarum status, for all shipments of hatching eggs or baby poultry made through the United States Postal Service. Also to be discussed is the availability of reliable Mycoplasma diagnostic antigens which are essential to the programs of the National Poultry Improvement Plan.

A copy of the agenda and further information concerning the meeting may be obtained by contacting Dr. James W. Smith, Chairman, Animal Physiology and Genetics Institute, ARS, Building 161, BARC-East, Beltsville, Maryland 20705. His telephone number is 301/344–2259.

Done at Washington, D.C. this 16th day of March, 1977.

T. W. EDMINSTER,
Administrator,
Agricultural Research Service.

[FR Doc.77–8391 Filed 3–18–77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket Nos. 30361, 23080–2; Order 77–3–66]

AIR MIDWEST INC. AND PRIORITY AND NONPRIORITY DOMESTIC SERVICE MAIL RATES

Order Fixing Temporary Mail Rates

Issued under delegated authority March 11, 1977.

In the matter of service mail rates for Air Midwest, Inc. and priority and nonpriority domestic service mail rates—phase 2.

By Order 77–2–121, dated February 24, 1977, the Board directed all interested persons, and particularly Air Midwest, Inc. and the Postmaster General, to show cause why the Board should not establish as temporary service mail rates for Air Midwest, effective with the commencement of its certificated services, the temporary rates established in Docket 23080–2.

The time designated for filing notice of objection has elapsed and no notice of objection or answer to the order has been filed by any person. All persons have therefore waived the right to a hearing and all other procedural steps short of a final decision by the Board.

Upon consideration of the record, the findings and conclusions set forth in said Order are hereby reaffirmed and adopted.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, the Board's Regulations 14 CFR Part 302 and the authority delegated by the Board in 14 CFR 385.16(g),

It is ordered, That: (1) An investigation is hereby instituted to determine the fair and reasonable rates to be paid by the Postmaster General to Air Midwest, Inc. for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, over Air Midwest's entire certificated operations on and after the date of commencement of services by Air Midwest, Inc., pursuant to its certificate of public convenience and necessity;

(2) The investigation instituted herein (Docket 30361) is hereby consolidated into Docket 23080–2;

(3) On and after the date of commencement of certificated air transportation by Air Midwest, Inc., the fair and reasonable temporary rates of compensation to be paid by the Postmaster General for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, to Air Midwest, Inc., for operations between points which it is presently or hereafter may be authorized to carry mail by its certificates of public convenience and necessity are the temporary rates established in Docket 23080–2;

(4) The temporary service mail rates established herein shall be paid in their entirety by the Postmaster General and shall be subject to retroactive adjustment, commencing with the date of inauguration of services by Air Midwest, Inc., pursuant to its certificate of convenience and necessity, as may be required by the order establishing final service mail rates in Docket 23080–2;[1] and

(5) This order shall be served upon Air Midwest, Inc. and the Postmaster General.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may do so within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77–8399 Filed 3–18–77;8:45 am]

[1] This order does not affect any retroactive adjustments that the carrier may be entitled to as a Part 298 operator.

[Docket 29964; Order 77–3–65]

POLSKIE LINIE LOTNICZE

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 15th day of March, 1977.

By Order 72–12–56, approved by the President December 12, 1972, the Board issued a foreign air carrier permit to Polskie Linie Lotnicze (LOT), authorizing, inter alia, scheduled foreign air transportation between points in Poland and the terminal point New York, via intermediate points. The permit became effective on December 12, 1972, and terminated on October 31, 1976.[1]

By exchange of notes dated August 26, 1976, the outstanding bilateral Air Transportation Agreement between the Government of the United States and the Government of Poland was extended to October 14, 1979, and amended to provide, inter alia, for three frequencies by the Polish-designated airlines for the winter period November 1, 1976, to May 14, 1977, and increased frequencies in subsequent periods.[2] On October 26, 1976, LOT filed in Docket 29964 an application for an order to show cause why its foreign air carrier permit should not be renewed to October 14, 1979, and amended to authorize increased frequencies in accord with the understanding of August 26, 1976, between the United States and the Government of the Polish People's Republic.

No objections to the application were received.

The application was forwarded to the Department of State by the Ambassador of Poland. The Department of State filed a letter in support of the application.

On the basis of the foregoing, it is tentatively found and concluded that:

(1) It is in the public interest to renew the foreign air carrier permit of Polskie Linie Lotnicze authorizing the carrier, for a period terminating on October 14, 1979, (a) to engage in foreign air transportation of persons, property, and mail between a point or points in Poland; intermediate points in Denmark, The Netherlands, Belgium, and in either

[1] LOT, by timely filing of an application for renewal and amendment of its permit, caused the permit to continue in effect beyond its termination date of October 31, 1976, pursuant to the provisions of 5 U.S.C. 558(c).

[2] On October 22, 1976, in Docket 29395, LOT filed an application requesting that the Board grant authorization to provide a total of three weekly frequencies in scheduled air transportation for the winter period commencing November 1, 1976. In Order 76–10–142, October 29, 1976, the Board authorized LOT to operate three weekly round trips until May 14, 1977, or upon the effective date of a new permit issued to LOT, whichever earlier occurs.

France or the United Kingdom; Montreal, Canada; and the terminal point New York, New York; and (b) to perform charter trips in foreign air transportation subject to the terms, conditions, and limitations of Part 212 of the Board's Economic Regulations;

(2) That the public interest requires that the exercise of the privileges granted by said permit shall be subject to the terms, conditions, and limitations contained in the form of permit attached to the accompanying order, and to such other reasonable terms, conditions and limitations required by the public interest as may from time to time be prescribed by the Board;

(3) LOT is fit, willing, and able to provide the air transportation proposed in its application and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board.[3]

(4) That Polskie Linie Lotnicze should be authorized to engage in foreign air transportation in accordance with said permit under the trade name "Polish Airlines" and/or "LOT Polish Airlines" and/or "Polish Airlines LOT".

Accordingly, *it is ordered*, That: (1) All interested persons be and they hereby are directed to show cause why the Board should not make final the tentative findings and conclusions herein, and why an order should not be issued, subject to approval by the President pursuant to Section 801(a) of the Act, issuing a direct foreign air carrier permit to Polskie Linie Lotnicze;

(2) Any interested persons having objections to the issuance of an order making final the tentative findings and conclusions herein, or to the issuance of the proposed foreign air carrier permit, shall, within 21 days after adoption of this order, file with the Board and serve on the persons named in paragraph 5 below, a statement of objections, together with a summary of testimony, statistical data, and such evidence expected to be relied upon to support the statement of objections;

(3) If timely and properly supported objections hereto are filed, full consideration will be accorded the matters or issues raised therein before further action is taken by the Board: *Provided however*, That the Board may proceed to enter an order in accordance with the tentative findings and conclusions herein if it determines that there are no factual issues presented that warrant the holding of an evidentiary hearing;

(4) In the event no objections are filed hereto, all further procedural steps will be deemed to have been waived, and the Board may proceed to enter an order in accordance with the tentative findings and conclusions herein; and

(5) This order shall be served upon the Ambassador of Poland and the Departments of State and Transportation.

[3] In approving LOT's initial authority, the Board found that the carrier met the fitness standards of the Act and the service proposed was in the public interest. Order 72-12-56, November 22, 1972.

This order shall be published in the FEDERAL REGISTER and transmitted to the President.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

SPECIMEN

PERMIT TO FOREIGN AIR CARRIER

(AS AMENDED)

Polskie Linie Lotnicze is hereby authorized, subject to the provisions hereinafter set forth, the provisions of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage in foreign air transportation with respect to persons, property, and mail, as follows: Between a point or points in Poland; intermediate points in Denmark, The Netherlands, Belgium, and in either France or the United Kingdom; Montreal, Canada; and the terminal point New York, New York.

The holder shall be authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations prescribed by Part 212 of the Board's Economic Regulations.

This permit shall be subject to the following terms, conditions, and limitations:

(1) Prior to the commencement of operations under this permit to either France or the United Kingdom, the holder shall elect to serve intermediate points in either France or the United Kingdom and shall notify the Government of the United States of its selection; the country not selected shall be deemed to be deleted from the permit.

(2) The holder may serve Montreal both as a point intermediate to and beyond New York.

(3) Except as the Board may otherwise provide, with or without hearing, by prior authorization, the holder shall not operate over the described route more than the following number of round-trip frequencies per week, in scheduled service during the periods indicated:

Period	*Frequency (weekly round trips)*
Nov. 1, 1976 to May 14, 1977	3
May 15, 1977 to Oct. 14, 1977	4
Oct. 15, 1977 to May 14, 1978	[1] 4
May 15, 1978 to Oct. 14, 1978	5
Oct. 15, 1978 to May 14, 1979	4
May 15, 1979 to Oct. 14, 1979	5

[1] The holder may operate 1 additional round-trip frequency per week if at least 1 of its frequencies makes an intermediate traffic stop in each direction.

Requests by the holder for approval of additional flights shall be made by filing the proposed schedule through diplomatic channels at least 120 days but no more than 150 days before its proposed effective date.

The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of the Polish People's Republic for Polish international air service.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and the Polish People's Republic shall be parties.

By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board to which the holder becomes a party.

The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in CAB Agreement 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon requests, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

The exercise of the privileges granted hereby shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This permit shall be effective on _____ and unless otherwise terminated as provided hereinafter, shall terminate on October 14, 1979. Prior to the termination of this permit on October 14, 1979, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement, or amendment thereto, which shall have the effect of eliminating the route hereby authorized from the routes which may be operated by airlines designated by the Government of the Polish People's Republic (or in the event of the elimination of any part of the route hereby authorized, the authority shall terminate to the extent of such elimination), or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of the Polish People's Republic in lieu of the holder hereof, or (3) upon the termination or expiration of the Air Transport Agreement between the Government of the United States and the Government of the Polish People's Republic, dated July 19, 1972: *Provided, however*, That clause (3) of this paragraph shall not apply if, prior to the events specified in clause (3), the operation of the foreign air air transportation herein authorized becomes the subject of any treaty, convention, or agreement to which the United States and the Polish People's Republic are or shall become parties.

In witness whereof, the Civil Aeronautics Board has caused this permit to be executed by the Secretary of the Board, and the seal of the Board to be affixed hereto, on the

Issuance of this permit to the holder approved by the President of the United States on _____ in _____.

_____,
Secretary.

[FR Doc.77-8400 Filed 3-18-77;8:45 am]

[Docket No. 28213, etc.]

YUSEN AIR & SEA SERVICE CO., LTD. ET AL.

Hearing

In the matter of Yusen Air & Sea Service Company, Ltd., (Japan) d/b/a Yusen Air & Sea Service (U.S.A.), Inc. Docket 28213, Kinki Nippon Tourist Co., Ltd., (Japan) d/b/a Kintetsu World Express, Inc. (U.S.A.) Docket 28955, Nissin Transportation & Warehousing Co., Ltd. (Japan) d/b/a Nissin International Transport, U.S.A., Inc. Docket 29373, Nippon Express Co., Ltd. (Japan) d/b/a Nippon Express U.S.A., Inc. Docket 29431, Mitsui Air & Sea Service Co., Ltd. (Japan) d/b/a Mitsuiline Travel Service of America, Inc. (U.S.A.) Docket 29512, "K" Line Air Service, Ltd. (Japan) d/b/a "K" Line New York, Inc. (U.S.A.) Docket 29618, Nishi Nippon Railroad Co., Ltd. (Japan d/b/a NNR Aircargo Service, (U.S.A.) Inc. Docket 29984.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceedings will be held on May 18, 1977, at 9:30 a.m. (local time) in Room 1003, Hearing Room B, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned Administrative Law Judge.

For information concerning the issues involved and other details in these proceedings, interested persons are referred to the Prehearing Conference Report, served on January 31, 1977, and other documents which are in the dockets of these proceedings on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., March 14, 1977.

FRANK M. WHITING,
Administrative Law Judge.

[FR Doc.77-8401 Filed 3-18-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

NATIONAL INDUSTRIAL ENERGY COUNCIL

Rescheduling

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975) notice is hereby given that a full meeting of the National Industrial Energy Council will be held on Wednesday, March 30, 1977, from 10 a.m. to 11 a.m. in Room 450 of the Old Executive Office Building at 17th and Pennsylvania Avenue NW. A meeting had been previously announced in the FEDERAL REGISTER (42 FR 30-9049) for an earlier date, but was subsequently postponed (42 FR 43-12542).

There will be a presentation by NIEC members of their views on industrial energy matters to the Secretary of Commerce, or her representative, and members of the Energy Policy and Planning Office with the Executive Office of the President.

This meeting will be open to the public; however, only a limited number of seats will be available. In order to permit access to the Old Executive Office Building, members of the public who wish to attend this meeting should contact Ms. Evelyn McKessey on 202-377-2757 prior to noon Monday, March 28, 1977.

Interested persons are also invited to file written statements with the Council before or after the meeting. Copies of the minutes will be available 30 days after the meeting upon written request addressed to the DIBA Freedom of Information Officer, Freedom of Information Control Desk, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Inquiries should be addressed to Ms. Evelyn McKessey, Office of Energy Programs, DIBA, Room 2203, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C 20230.

Dated: March 17, 1977.

R. DENNIS O'CONNELL,
Executive Director, National Industrial Energy Council.

[FR Doc.77-8527 Filed 3-18-77;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

LEATHER CONTAINING TEXTILE MATERIAL

Temporary Suspension From Restraints

MARCH 16, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Temporarily suspending from Textile Agreement Restraints certain articles which are in chief value of leather containing textile materials imported into the United States prior to May 1, 1977.

SUMMARY: Executive Order 11974, dated February 25, 1977, established TSUS No. 791.74 which covers certain wearing apparel of leather which is: In part of textile materials the aggregate weight of which exceeds the weight of any individual nontextile material contained therein. On March 7, 1977, there was published in the FEDERAL REGISTER (FR Doc. 77-6648) a list of Tariff Schedules of the United States Annotated numbers, under TSUS No. 791.74, citing changes in the arrangement of the cotton, wool and man-made fiber textile product categories used by the United States in administering the textile trade agreements program. The new statistical annotation numbers for TSUS No. 791.74 will continue in the correlation but will not be used by the United States in administering the textile trade agreements program until May 1, 1977. Entries prior to May 1, 1977 will not be subject to the restraints provided under the textile trade agreements and will not be required to comply with the visa requirements established pursuant to the individual bilateral textile trade agreements.

The United States, beginning May 1, 1977, in administering the textile trade agreements, will require that entries under these statistical annotations of TSUS No. 791.74 be charged to the appropriate restraint levels and comply with the visa requirements pursuant to the individual bilateral textile trade agreements.

IMPORTERS EXPERIENCING ENTRY DIFFICULTY AND OTHERS IN NEED OF FURTHER INFORMATION CONTACT:

Leonard A. Mobley, Director, Trade Analysis Division, Office of Textiles, U.S. Department of Commerce, Washington, D.C., 20230 (202-377-4212).

RONALD I. LEVIN,
Acting Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce.

[FR Doc.77-8392 Filed 3-18-77;8:45 am]

COMMODITY FUTURES TRADING COMMISSION

GOVERNMENT IN THE SUNSHINE

Meeting

Notice is hereby given, pursuant to section 3(a) of the Government in the Sunshine Act, 5 U.S.C. 552(b)(e)(3), and 17 CFR 147.4(e), that the Commodity Futures Trading Commission will conduct a meeting of the Commission on March 22, 1977, at 2033 K Street NW., Washington, D.C., in Room 520, beginning at 10:00 a.m. The Commission intends to consider the following items in open session:

1. QUARTERLY REVIEW: PART II

Questions concerning the agenda for the March 22, 1977, Commission meeting, or possible changes therein, may be directed to the Commission's Office of the Secretariat at (202) 254-6126.

Pursuant to 17 CFR 147.5(d), any person whose interests may be directly affected by a portion of an open Commission meeting may request in writing that the Commission close that portion of the meeting to public observation. Requests should be directed to the Commission's Office of the Secretariat, 2033 K Street NW., Washington, D.C. 20581.

Dated: March 16, 1977.

JANE K. STUCKEY,
Director, Office of the Secretariat, Commodity Futures Trading Commission.

[FR Doc.77-8346 Filed 3-18-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MARCH 14, 1977.

The USAF Scientific Advisory Board Tactical Panel will hold a meeting at Nellis Air Force Base, Nevada on April 15, 1977 from 8 a.m. to 6 p.m.

The Panel will receive classified briefings and hold classified discussions on the Tactical Air Command Air Combat Maneuvering operation.

The meeting concerns matters listed in Section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly the meeting will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-4811.

FRANKIE S. ESTEP,
Air Force Federal Register, Liaison Officer, Directorate of Administration.

[FR Doc.77-8328 Filed 3-18-77;8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MARCH 14, 1977.

The USAF Scientific Advisory Board ad hoc Committee on Aeronomy will hold a meeting on April 18, 1977 at Headquarters, Air Weather Service, Scott Air Force Base, Illinois.

The Committee on Aeronomy will present its findings and recommenations to HQ AWS.

The meeting will be open to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-4648.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-8329 Filed 3-18-77;8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MARCH 11, 1977.

The USAF Scientific Advisory Board Spring General Meeting will be held on April 13-14, 1977, from 8:30 a.m. to 5:00 p.m. at Vandenberg Air Force, California.

The meetings will consist of classified briefings on Strategic Warfare.

The meetings concern matters listed in Section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-4648.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-8330 Filed 3-18-77;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92-463, as amended by Public Law 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Scientific Advisory Committee will be held as follows:

Wednesday and Thursday, 20-21 April 1977, U.S. Naval Ocean Systems Center, San Diego, California.

The entire meeting commencing at 0845 hours each day is devoted to the discussion of classified information as defined in Section 552(b)(1), Title 5 of the U.S. Code and therefore will be closed to the public. The Panel will review and evaluate the results of recent tests and analyses regarding various ship effects which impact on the Defense Intelligence Agency's assessments of foreign military operations and capabilities.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

MARCH 16, 1977.

[FR Doc.77-8303 Filed 3-18-77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

LIQUID METAL FAST BREEDER REACTOR (LMFBR) STEERING COMMITTEE

Meeting

MARCH 16, 1977.

Pursuant to provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770) notice is hereby given that the LMFBR Steering Committee will hold a meeting on April 5 and 6, 1977, at the Hyatt Regency Hotel, 400 New Jersey Avenue NW., Washington, D.C., Room Columbia A. The meeting will be open to the public and will begin at 10 a.m.

The following agenda items will be discussed:

APRIL 5, 1977

10 to 10:05 a.m.—Opening remarks by Robert D. Thorne, Acting Assistant Administrator for Nuclear Energy.

PRESENTATION AND DISCUSSION OF DRAFTS OF ISSUE PAPERS

10:05 to 11:30 a.m.—Breeder—Why and When; Role of Clinch River Demonstration Plant (CRBR) by Eric S. Beckjord, Director, Division of Reactor Development and Demonstration (RDD).

11:30 a.m. to 12 m.—CRBR Cost Estimate by Richard Passman, Deputy Director for Projects, RDD.

12 m. to 1 p.m.—Recess for lunch.

1 to 2:30 p.m.—Resources, Fuels and Fuel Cycle; Proliferation Aspects by George W. Cunningham, Acting Deputy Assistant Administrator for Nuclear Energy.

2:30 to 3 p.m.—Facilities and R&D Support by Carl Backlund, Assistant Director, Facilities and Operations, RDD.

3 to 3:30 p.m.—Financial Impacts and Economic Assessments by Kerry Dance, Planner, Office of the Assistant Administrator for Nuclear Energy.

3:30 to 5 p.m.—Alternative Concepts, Use of Foreign Technology and Alternative Programs by Lee Everett, President, Philadelphia Electric Company.

APRIL 6, 1977

10 to 10:15 a.m.—Opening remarks by Robert D. Thorne, Acting Assistant Administrator for Nuclear Energy.

10:15 a.m. to 12 m.—Working Session on Final Draft of Steering Committee Report.

12 m. to 1 p.m.—Recess for lunch.

1 to 5 p.m.—Continue Working Session on Final Draft of Steering Committee Report.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business. With respect to public participation in Agenda items, scheduled above, the following requirements shall apply:

(a) Information as to whether the meeting has been rescheduled or relocated can be obtained by a prepaid telephone call on the day before the meeting to the Office of the Acting Assistant Administrator for Nuclear Energy (202) 376-4778 between the hours of 8:30 a.m. and 5:00 p.m., Eastern time.

(b) Questions at the meeting may be propounded only by members of the steering Committee and ERDA officials assigned to participate with the Committee in its deliberations.

(c) Seating to the public will be made available on a first-come, first-served basis.

(d) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(e) Copies of the minutes will be made available for copying, following their certification by the Chairman, in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue NW., Washington, D.C. 20545, upon payment of all charges required by law.

HARRY L. PEEDLES,
Deputy Advisory Committee Management Officer.

[FR Doc.77-8443 Filed 3-18-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 700-2; OPP-00043A]

PESTICIDE PROGRAMS

Chlorofluorocarbons in Aerosol Products; Effective Date Changed

On February 15, 1977, the Environmental Protection Agency (EPA) published PR Notices 76-3 and 77-1 in the FEDERAL REGISTER (42 FR 9205). PR Notice 76-3 provides that all pesticide products which contain chlorofluorocarbons 11 and 12 as propellants must bear the statement on the label "This Product Contains Chlorofluorocarbon-11 (or -12, as appropriate)" if the product is produced or released for shipment on or after April 15, 1977.

PR Notice 77-1 provides that registrants having aerosol pesticide products which do not contain chlorofluorocarbons may use the statement "Does not contain chlorofluorocarbons" on the label of the pesticide product.

PR Notice 77–1 further provided that the use of this latter statement was effective immediately, that is, on February 15, 1977, the date of publication of the FEDERAL REGISTER notice. Since the issuance of this PR Notice, the EPA has decided that, for administrative convenience, the PR Notices should be consistent with each other; specifically, the same effective date, April 15, 1977, should be adopted for both PR Notices.

Accordingly, PR Notice 77–1 is amended to provide that the statement "Does not contain chlorofluorocarbons" may appear on the label of aerosol pesticide products produced or released for shipment on or after April 15, 1977. All other provisions of PR Notice 77–1 remain in effect.

Dated: March 11, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77–8263 Filed 3–18–77;8:45 am]

[FRL 700–3; PF66]

PESTICIDE PROGRAMS

Filing of Pesticide Petitions

Pursuant to the provisions of Section 408(d) (1) of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency gives notice that the following petitions have been submitted to the Agency for consideration.

PP 7F1907. E. I. DuPont de Nemours & Co., Wilmington DE 19898. Proposes amending 40 CFR 180.303 by establishing a tolerance for residues of the insecticide oxamyl (methyl *N',N'*-dimethyl-*N*-[methylcarbamoyl)oxy]-1-thiooxamidate) in or on the raw agricultural commodity cottonseed at 0.2 part per million (ppm). Proposed analytical method for determining residues is by using flame photometric gas chromatography with a nitrogen specific detector. PM12 (202/755–9315)

PP 7F1911. Abbott Laboratories, Chemical and Agricultural Products Division, 14th St. and Sheridan Rd., N. Chicago IL 60064. Proposes amending 40 CFR 180.224 by establishing a tolerance for the combined residues of the herbicide gibberellin A4 and gibberellin A7 (gibberellic acid) in or on the raw agricultural commodity apples at 0.15 ppm. Proposed analytical method for determining residues is a double TLC fluorometric technique. PM25 (202/426–2632)

PP 7F1912. Abbott Laboratories, 14th St. and Sheridan Rd., N. Chicago IL 60064. Proposes amending 40 CFR 180 by granting an exemption from the requirements for a tolerance of *N*-phenylmethyl-1*H*-pierine-6-amine (6-benzyladenine) in or on the raw agricultural commodity apples. Proposed analytical method for determining residues is one in which a derivative of the compound is formed with pentafluorobenzylbromide which is determined by gas liquid chromatography using an electron capture detector. PM25 (202/426–2632)

PP 7F1921. EM Laboratories, 500 Executive Blvd., Elmsford NY 10523. Proposes amending 40 CFR 180 by establishing a tolerance for residues of t he fungicide triforine (N,N'-[1,4-piperazinediylbis (2,2,2-trichloroethylidene)] bis [formamide]) in or on the raw agricultural commodities peaches at 5 ppm, blueberries at 0.1 ppm, and cranberries at 0.1 ppm. Proposed analytical method for determining residues is gas chromatography with an electron capture detector. PM21 (202/426–2464)

Interested persons are invited to submit written comments on any petitions referred to in this notice to the Federal Register Section, Technical Services Division (WH–569), Office of Pesticide Programs, Rm. 401, East Tower, 401 M St. SW., Washington DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. Inquiries concerning specific petitions referred to in this notice may be directed to the designated Product Manager (PM), Registration Division (WH–567), Office of Pesticide Programs, at the above address, or by telephone at the numbers cited. Written comments should bear a notation indicating the number of the petition to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: March 10, 1977.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc.77–8264 Filed 3–18–77;8:45 am]

[FRL 701–5; OPP–50279]

U.S. BORAX RESEARCH CORP.

Receipt of Application for Experimental Use Permit; Solicitation of Public Views

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.), the U.S. Borax Research Corporation (hereafter referred to as the "Applicant") has applied to the Environmental Protection Agency (EPA) for an experimental use permit allowing the use of 11,904 pounds of the herbicide USB 3153 to evaluate weed control and crop tolerance of several commodities. This permit would allow the use of this herbicide on cotton, soybeans, tree fruit, nut crops, and grapes in 26 States. This application for an experimental use permit is subject to the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

According to the section 5 regulations, the Administrator shall publish notice in the FEDERAL REGISTER of receipt of an application for an experimental use permit upon finding that issuance of the permit may be of regional or national significance; the determination has been made that this application falls within that category. Therefore, all interested parties are invited to submit written comments pertinent to the application to the FEDERAL REGISTER Section, Room E-401, Technical Services Division (WH–569), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting the submissions. The comments must be received on or before April 20, 1977, and should bear the identifying notation OPP–50279. All written comments filed pursuant to this notice will be available for public inspection in the Office of the Federal Register Section from 8:30 a.m. to 4:00 p.m. during normal work days.

This document contains a summary of information required by regulation to be included in the notice and does not indicate a decision by this Agency on the application. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH–567), Office of Pesticide Programs, Room E–315, located at the Headquarters address mentioned above.

A previous experimental use permit (No. 1624–EUP–19) was granted to the Applicant to use 1,789 pounds active ingredient of the herbicide N3, N3-Di-*n*-propyl - 2,4 - dinitro - 6 - (trifluoromethyl) - *m* - phenylenediamine (USB 3153) on cotton, soybeans, apricots, peaches, plums, almonds, and grapes, to evaluate control of various broadleaf weeds and grasses. A total of 3,000 acres were involved in 14 States; the experimental use permit expired December 22, 1976. The present application requests an extension of the previous permit and involves 5,953 pounds active ingredient (11,904 pounds of USB 3153) of the same herbicide on cotton, soybeans, grapes, almonds, wanuts, plums, peaches, and apricots in 26 States; a total of 6,546 acres is involved. The objectives of the experimental program in respect to the commodities are discussed below.

COTTON

The objective of this part of the experimental program is to evaluate weed control and crop tolerance. There would be four applications; soil, forage, and mature cottonseed would be collected for residue analysis. Crop yield would be determined. Fourteen (14) States are involved: Arizona, Alabama, Arkansas, California, Georgia, Louisiana, Mississippi, Missouri, Nevada, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas. In the fall application (spring planted to cotton in various soil types), 510 acres would be treated, involving all of the States above, except Nevada. In the spring application in continuous cotton, which would be 0 to 30 days prior to planting cotton followed by cotton, 780 acres would be treated, involving all the States except North Carolina. In the early spring application, which would be 30 to 90 days prior to planting cotton, 690 acres would be treated, involving all the States except Nevada, North Carolina, and Oklahoma. In the spring application, which would be 0 to 30 days before planting cotton, 990 acres would be treated, involving all the States except North Carolina. In all four instances, the methods of application

would be preplant soil incorporated, broadcast, and mechanical incorporation.

SOYBEANS

The objective of this part of the experimental program is to evaluate weed control and crop tolerance. There would be three applications; oil, forage, and mature soybean seed would be collected for residue analysis. Crop yield would be be three applications; soil, forage, and determined. Twenty (20) States are involved: Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, and Virginia. In the fall application (spring planted to soybeans), 570 acres would be treated, involved all of the States above except Kansas, Kentucky, Michigan, Minnesota, Nebraska, Ohio, and Virginia. In the early spring application, which would be 30 to 90 days prior to planting soybeans, 720 acres would be treated, involving all the States except Kansas, Kentucky, Michigan, Minnesota, Nebraska, Ohio, Oklahoma, and Virginia. In the spring application, which would be 0 to 30 days prior to planting soybeans, 1,050 acres would be treated, involving all the States except North Carolina, Oklahoma, South Carolina, and Tennessee. In all three instances, the methods of application would be preplant soil incorporated, broadcast, and mechanical incorporation. Regarding applications to cotton and soybeans, a total of 5,310 acres would be involved; a total of 3,069 pounds active ingredient would be used. All unused USB 3153 would be returned to the Applicant.

TREE FRUIT, NUT CROPS, AND GRAPES

The objective of this part of the experimental program is to evaluate weed control, crop tolerance, exposure periods between application and incorporation into the soil, and different methods of incorporation (mechanical and irrigation) when USB 3153 is applied in bearing and non-bearing vine and tree crops. Mature crops would be analyzed for residues and yield and quality of fruit would be determined. Varietal differences would be evaluated. Four States are involved: California, Colorado, South Carolina, and Washington. In California, there would be applications in the fall, winter, and spring to grape, almond, walnut, peach, apricot, and plum crops; a total of 961.5 acres would be treated. In Colorado, there would be applications in the fall and spring to peach crops; a total of 81 acres would be treated. In South Carolina, there would be applications in the fall and spring to peach crops; a total of 81 acres would be treated. In Washington, there would be applications in the fall and spring to grape crops; a total of 112.5 acres would be treated. Regarding applications to the tree fruit, nut crops, and grapes, a total of 1,236 acres in the four States listed would be involved; a total of 2,834 pounds active ingredient would be used.

Methods of incorporation/application being evaluated include mechanical (a) 0 to 10 days after application of USB 3153, and (b) 10 to 20 days after application, and irrigation; the irrigation evaluation would concern (a) furrow: direction of flow study, (b) flood: study effect of berm on flow, (c) sprinkler: study solid set versus portable, and (d) herbigation: slow continuous flow (2 gallons per hour/Emitter) to incorporate herbicide into soil. All unused USB 3153 would be returned to the Applicant.

Dated: March 14, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-8266 Filed 3-18-77;8:45 am]

FEDERAL DEPOSIT INSURANCE CORPORATION

BOARD OF DIRECTORS

Change in Time and Place of Agency Meeting

On Tuesday, March 8, 1977, the Federal Deposit Insurance Corporation announced that its Board of Directors would meet in closed session at 11:30 a.m. on Tuesday, March 15, 1977, by unanimous vote of the Board of Directors pursuant to sections 552b(d) (1), 552b(c) (6), and 552b(c) (9) (B) (ii) of title 5, United States Code, to consider (1) three applications or requests pursuant to section 19 of the Federal Deposit Insurance Act for the Corporation's consent to service of persons convicted of offenses involving dishonesty or a breach of trust as directors, officers, or employees of insured banks; (2) four recommendations regarding liquidation of a bank's assets acquired by the Corporation in its capacity as reciver, liquidator, or liquidating agent of those assets; (3) certain reports of committees and officers; and (4) certain personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, etc. The meeting was to have been held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, D.C. 20429.

At 10:15 a.m. on the morning of March 15, 1977, the Board of Directors determined that Corporation business required that the time and place of the meeting be changed to 10:30 a.m., March 15, 1977, in Room 6023 of the FDIC Building. No change was made in the subject matter of the meeting.

Dated: March 15, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc.77-8302 Filed 3-18-77;8:45 am]

FEDERAL ELECTION COMMISSION

[Notice 1977-17; AOR 1977-12]

ADVISORY OPINION

Requests

Pursuant to 2 U.S.C. § 437f(c) and the procedures reflected in Part 112 of the Commission's Proposed Regulations, published on August 25, 1976 (41 FR 35954), Advisory Opinion Request 1977-12 has been made public at the Commission. Copies of AOR 1977-12 were made available on March 16, 1977. These copies of the advisory opinion request were made available for public inspection and purchase at the Federal Election Commission, Public Records Division, at 1325 K Street NW., Washington, D.C. 20463.

Interested persons may submit written comments on any advisory opinion request within ten days after the date the request was made public at the Commission. These comments should be directed to the Office of the General Counsel, Advisory Opinion Section, at the Commission. Persons requiring additional time in which to respond to any advisory opinion requests will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered before the Commission issues an advisory opinion. Comments on pending requests should refer to the specific AOR number of the requests and statutory references should be to the United States Code citations rather than to the Public Law citations.

A description of the request recently made public as well as the identification of the requesting party follows hereafter:

AOR 1977-12: May a candidate for the House of Representatives utilize an office telephone and office space to conduct campaign activities, as well as activities incident to pursuing his employment, in a building which he personally owns? Requested by Donald D. Meyer, Candidate for the United States House of Representatives, Labadie, Missouri.

Dated: March 16, 1977.

VERNON W. THOMSON,
Chairman for the Federal Election Commission.

[FR Doc.77-8382 Filed 3-18-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

RATE DESIGN INITIATIVES SUBCOMMITTEE OF THE STATE REGULATORY ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Rate Design Initiatives Subcommittee of the State Regulatory Advisory Committee will meet Monday, April 18, 1977, at 9:30 a.m., Room 5041, FEA Headquarters, 12th & Pennsylvania Avenue NW., Washington, D.C.

The objectives of this Subcommittee are to advise FEA on its preparation and analysis of electric utility rate design proposals which are to be submitted to the Congress pursuant to Title II, section 203, Pub. L. 94-385, Energy Conservation and Production Act.

The purpose of the meeting is to discuss the interim report and to make recommendations to FEA concerning preparation of the final report.

The meeting is open to the public. The Chairman of the Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lois Weeks, Director, Advisory Committee Management, (202) 566-7022, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

A transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, Room 2107, FEA, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C. on March 15, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-8272 Filed 3-16-77;9:45 am]

[No. 1]

FEDERAL HOME LOAN BANK BOARD

GOVERNMENT IN THE SUNSHINE

Open Meeting

MARCH 16, 1977.

Pursuant to the Government in the Sunshine Act of 1976, 5 U.S.C. 552b(e)(1) and (3), announcement is made of a Board meeting to be held on March 23, 1977 at 9:30 a.m., in room 630, at which the following agency business will be conducted:

Consideration of Proposed Regulation Concerning "Scheduled Items"; Loans to Facilitate and Real Estate Contracts.
Consideration of Petition for Reconsideration of Borad Resolution No. 76-837, dated 11-10-76 Approving the Application of Prescott Federal Savings and Loan Association, Prescott, Arkansas to Establish a Branch Office in Nashville, Arkansas.
Consideration of Branch Office Applications from Glendale Federal Savings and Loan Association, Glendale, California and Western Federal Savings and Loan Association, Los Angeles, California.
Branch Office Application, Down River Federal Savings and Loan Association, Taylor, Michigan.
Branch Office Application, Hollywood Federal Savings and Loan Association, Hollywood, Florida.
Membership and Insurance Application, Silver City Savings and Loan Association, Silver City, New Mexico.
Consideration of Monthly Operating Indicators as of February 28, 1977.
Branch Office Application, Home Federal Savings and Loan Association, Algona, Iowa.
Consideration of Notice of Conversion to State Mutual Association Voluntary Termination of Insurance; Cancellation of Bank Membership and Refund of the Pro Rata Share of Secondary Reserve, Mid-State Federal Savings and Loan Association, Baltimore, Maryland.
Consideration of Request for Release of Eligibility Examination Reports to the State of Tennessee Supervisory Authorities.
Branch Office Application, Home Federal Savings and Loan Association of Nampa, Nampa, Idaho.
Consideration of Final Regulation Concerning Amendments Relating to Investment in Saving Deposits.
Consideration of Proposed Amendments Relating to Rate of Return.
Request for Termination of Receivership, Northwest Guaranty Savings and Loan Association, Seattle, Washington.
Application for Permission to Organize a New Federal Savings and Loan Association—Eduardo Augusto Cardounel, et al., Fort Lauderdale, Florida.
Branch Office Application, Los Angeles Federal Savings and Loan Association, Los Angeles, California.
Consideration of Request for Final Approval of the Exact Location of a Limited Facility Branch Office—Biscayne Federal Savings and Loan Association, Miami, Florida.

Mr. Robert Marshall (202-376-3012) is the Board official designated to respond to requests for information pertaining to such meeting.

The Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc.77-8356 Filed 3-18-77;8:45 am]

FEDERAL MARITIME COMMISSION

PACIFIC-STRAITS CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before April 11, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement filed by:

F. Conger Fawcett, Esq., Graham & James, One Maritime Plaza, San Francisco, California 94111.

Agreement 5680-24 has been filed with the Commission for approval under Section 15 of the Shipping Act, 1916, by the Pacific-Straits Conference. The effect of this modification would be to exclude Alaska from the scope of the Conference's basic agreement. According to an accompanying letter submitted by filing counsel, it is the Conference's intent that "* * * cargoes originating at Alaska and transshipped at a 'lower 48' West Coast port * * *" would remain within the scope of the Conference's agreement.

By Order of the Federal Maritime Commission.

Dated: March 16, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-8283 Filed 3-18-77;8:45 am]

PACIFIC-STRAITS CONFERENCE

Notice of a Petition Filed

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to Section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 813a).

Interested parties may inspect a copy of the proposed contract form and of the petition at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126 or at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments with reference to the proposed contract form and the petition including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, 1100 L. Street NW., Washington, D.C. 20573, on or before April 11, 1977. Any person desiring a hearing on the proposed contract system shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the proposed contract form and the petition (as indicated hereinafter), and the statement should indicate that this has been done.

Notice of Agreement filed by:

F. Conger Fawcett, Esq., Graham & James, One Maritime Plaza, San Francisco, California 94111.

Agreement 5680 DR-3 has been filed with the Commission for approval under Section 14b of the Shipping Act, 1916,

by the Pacific Straits Conference. The effect of this modification would be to exclude Alaska from the scope of the Conference's approved form of exclusive patronage (dual rate) contract. According to an accompanying letter submitted by filing counsel, it is the Conference's intent that "* * * cargoes originating at Alaska and transshipped at a 'lower 48' West Coast port * * *" would remain within the scope of the Conference's approved form of exclusive patronage contract.

By Order of the Federal Maritime Commission.

Dated: March 16, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-8387 Filed 3-18-77;8:45 am]

THOS. & JAS. HARRISON LTD., ET AL.

Agreement Filed

Notice is hereby given that the following agreement, accompanied by a statement of justification, has been filed with the Commission for approval pursuant to Section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement and the statement of justification at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement and the statement of justification at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before April 11, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Richard W. Kurrus, Esquire, Kurrus and Ash, 1055 Thomas Jefferson Street NW., Washington, D.C. 20007.

Agreement No. 10168-1, an amendment to a cooperative working arrangement among Thos. & Jas. Harrison Ltd., Compagnie Generale Maritime, Hapag-Lloyd Aktiengesellschaft, and Koninklijke Nederlandsche Stoomboot Maatschappij B.V. operating in the Puerto Rico/United States Virgin Islands-European Trade, would amend the Preamble of the agreement by expanding the scope thereof to include other ports or points in the Caribbean trade. The additional ports or points are Trinidad, Barbados, Jamaica, the Windward and Leeward Islands, British Virgin Islands, Turks and Caicos Islands, Cayman Islands, Netherlands Antilles, Haiti, Dominican Republic, Belize and the East Coast of Honduras, Guatemala and Nicaragua.

By Order of the Federal Maritime Commission.

Dated: March 16, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-8388 Filed 3-18-77;8:45 am]

[Fact Finding Investigation No. 9]

POSSIBLE REBATES AND SIMILAR MALPRACTICES IN THE UNITED STATES FOREIGN COMMERCE

Order of Investigation; Correction

In the second ordering paragraph of the order dated July 9, 1976, instituting this proceeding, which appeared in the FEDERAL REGISTER of July 21, 1976 (41 FR 30062) delete the name of Wm. Jarrel Smith, Jr. as Investigative Officer and insert the name of James K. Cooper.

By the Commission, March 10, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-8389 Filed 3-18-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP71-15 (PGA 77-3a)]

EAST TENNESSEE NATURAL GAS CO.

Rate Filing Pursuant to PGA Rate Adjustment

MARCH 10, 1977.

Take notice that on February 28, 1977, East Tennessee Natural Gas Company (East Tenessee) tendered for filing Twentieth Revised Sheet No. 4 to Sixth Revised Volume No. 1 of its FPC Gas Tariff. The proposed effective date is February 1, 1977.

East Tennessee states that its filing reflects a rate reduction filed by Tennessee Gas Pipeline Company, a Division of Tenneco Inc., on February 25, 1977, which is proposed to become effective February 1, 1977, in Docket No. RP76-137.

East Tennessee further states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to filo a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-8395 Filed 3-18-77;8:45 am]

[Docket No. E77-33]

UNITED GAS PIPELINE CO., ET AL.

Supplemental Emergency Order Pursuant to Emergency Natural Gas Act of 1977

By order issued March 9, 1977, pursuant to Section 6 of the Emergency Natural Gas Act of 1977, Pub. L. 95-2 (91 Stat. 4 (1977)), I denied, without prejudice, the request of United Gas Pipeline Company (United) to make certain emergency purchases because United's March 4, 1977 supplemental filing lacked specific "information necessary to determine which of the proposed purchases satisfy the criteria of" Colorado Interstate Gas Company, Docket No. E77-31 (February 28, 1977).

By supplemental filings received March 14, 1977, United submitted information from Goldking Production Company (Goldking), Basin Operating Company (Basin), Superior Oil Company (Superior), Systems Fuels, Inc. (Systems Fuels), and Delhi Gas Pipeline Corporation (Delhi) which purports to demonstrate that these sellers had incurred expenses prior to February 22, 1977, to make emergency sales to United. The information submitted by United demonstrates that the proposed purchases from Goldking, Systems Fuels, and Delhi satisfy the criteria of Colorado Interstate, supra. The information regarding the proposed purchase from Basin fails to satisfy the criteria of Colorado Interstate, supra, since it does not demonstrate that Basin commenced construction of facilities prior to February 22, 1977.

By telegram filed March 9, 1977, as supplemented by telegram filed March 14, 1977, Superior submitted information indicating that, prior to February 22, 1977, it had undertaken to engage contractors and to obtain materials to install a pipeline connecting the Dog Lake Field, Terrebonne Parish, Louisiana, to United's pipeline system. Superior states that it placed verbal orders for materials and pipe between February 4 and 22, 1977, but that in some cases written puchase orders were not issued until after February 22, 1977. Superior also states that it verbally engaged a pipeline contractor on February 18, 1977, and that this contractor assembled lay barges to install the pipeline on February 21, 1977, and that construction of the line actually commenced on February 24, 1977. The written purchase order for this work was issued on February 23, 1977.

This information does not satisfy the criteria of Colorado Interstate, supra, in that the installation of facilities to deliver gas to United did not commence on or before February 22, 1977.

Based on the foregoing, United has satisfied the Colorado Interstate criteria with respect to the proposed purchases from Goldking, Systems Fuels, and Delhi, and United may make such purchases notwithstanding Order No. 6. United has not submitted any information which indicates that Basin commenced installation of facilities prior to February 22, 1977, and therefore United's request to make this purchase is denied without prejudice to United's submission of information demonstrating that Basin commenced installation of facilities prior to February 22, 1977. The information submitted by Superior and United demonstrates that Superior did not commence the installation of facilities prior to February 22, 1977, and therefore the proposed purchase does not satisfy the Colorado Interstate criteria and is barred by Order No. 6.

United shall submit weekly reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon United, Goldking, Basin, Superior, Systems Fuels and Delhi. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MARCH 15, 1977.

[FR Doc.77–8393 Filed 3–18–77;8:45 am]

FEDERAL RESERVE SYSTEM

BOARD OF GOVERNORS

Meeting

On Wednesday, March 23, 1977, at 10 a.m. a meeting of the Board of Governors of the Federal Reserve System will be held at the Board's offices at 20th Street and Constitution Avenue NW., Washington, D.C., to consider the following items of official Board business:

1. Consideration of the appointment of a Federal Reserve Bank president. This matter was previously considered at a meeting on March 16, 1977.
2. Consideration of the appointment of a Federal Reserve Bank director. This matter was previously considered at a meeting on March 16, 1977.
3. Discussion of the Board's building renovation project.
4. Consideration of amendments to the Federal Reserve System's retirement, thrift and long-term disability income plan.
5. Discussion of a major equipment purchase by the Federal Reserve Board.
6. Any agenda items carried forward from a previously announced closed meeting.

This meeting will be closed to public observation because the items fall under exemptions contained in the Government in the Sunshine Act (5 U.S.C. 552b (c)). Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452–3204.

Board of Governors of the Federal Reserve System, March 16, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77–8304 Filed 3–18–77;8:45 am]

ALABAMA BANCORPORATION

Acquisition of Bank

Alabama Bancorporation, Birmingham, Alabama, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3) to acquire 100 percent of the voting shares of The Farmers and Merchants Bank, Ashford, Alabama. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 12, 1977.

Board of Governors of the Federal Reserve System, March 15, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77–8342 Filed 3–18–77;8:45 am]

CITICORP

Order Approving Engaging in Nonbank Activity

Citicorp, New York, New York, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), to engage de novo, through a new nonbank subsidiary, Citicorp Services, Inc. ("Services"), in the activity of issuing and offering on a consignment basis general purpose variable denominated payment instruments.

Notice of the application, and of proposed rulemaking to amend the Board's Regulation Y to add the activity of issuing and selling money order-like payment instruments to the list of activities permissible pursuant to section 4(c)(8) of the Act, was duly published (41 FR 14902 (1976) in order to afford opportunity for interested persons to submit comments and views on the public interest factors with respect to the application, and on the question of whether the proposed activity is so closely related to banking or managing or controlling banks as to a proper incident thereto.

The Board has considered the entire record of this proposal, including all comments received, and has determined that the activity is closely related to banking. However, the Board has decided that it will leave the rulemaking proceeding open and that it will not at present amend Regulation Y to include this activity among those generally permissible for bank holding companies. Rather, it will consider applications for permission to engage in the activity on a case-by-case basis, applying the public benefits test of section 4(c)(8) to the facts in each case. The Board also has determined that the application of Citicorp should be approved to the extent that it involves the issuance and marketing of payment instruments of a sort that would primarily be of use to consumers.

In order to authorize a bank holding company to engage in a nonbanking activity pursuant to section 4(c)(8) of the Bank Holding Company Act ("Act"), the Board must first determine whether the activity is closely related to banking or managing or controlling banks. The Board finds that banks historically have been in the business of issuing money orders and similar payment instruments, such as cashier's checks and certified checks. Such instruments evolved from the need for a safe method of transmitting funds over long distances and the need for a method of assuring payments. They are a functional equivalent of cash when used to effect payments, and are of particular usefulness to persons of limited resources who do not or cannot practically maintain checking accounts for effecting payment transactions. The instruments that are the subject of this proposal would extend, on an economical and convenient basis, the efficient payment mechanism of the commercial banking system to persons other than the typical demand deposit customers of banks. Since the proposed activity is comparable to certain functions of banks, involves financial skills generally possessed by banks, and is a type of service that banks traditionally have performed, the Board concludes that the proposed activity is closely related to banking.

In order to approve the subject application, the Board must also find that the performance of the proposed activity by a nonbank affiliate of Applicant "can reasonably be expected to produce benefits to the public such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." This balancing test necessitates a positive showing of public benefits outweighing the possible adverse effects of any proposed acquisition before an application may be approved. An applicant seeking approval to engage in a nonbanking activity under this section must bear the burden of showing the public benefits that would flow from its proposal.

Applicant, the largest banking organization in New York State and the second largest banking organization in the United States, controls two subsidiary

banks,[1] which together operate banking offices throughout New York State and control combined deposits of approximately $19.5 billion, representing about 14.4 per cent of the total deposits in commercial banks in New York State.[2] Applicant engages in a variety of permissible nonbank activities through some 85 direct and indirect domestic nonbank subsidiaries. Applicant's nonbank activities include mortgage banking,[3] leasing, consumer and sales financing, and insurance agency activities for insurance which is directly related to extensions of credit by Applicant's subsidiaries.

Applicant proposes to issue and offer on a consignment basis general purpose, variable denominated payment instruments to vendors or agents who would then sell such instruments to the general public. The purchasers would specify the denomination of the instrument. Applicant proposes to engage in this activity de novo through its wholly owned subsidiary, Citicorp Services, Inc., which will act as the distributing and marketing agent in connection with offering the instruments. Applicant's payment instruments are intended to serve as substitutes or replacements for money orders, cashier's checks, teller's checks, dollar drafts, certified checks, and similar types of payment instruments. The instruments that Citicorp proposes to issue will be of two types: one will have a $1,000 limit on its face value and will be similar to the traditional personal money order; the second type will be unlimited in face value.

The facts of record on this proposal indicate that consumer-type payment instruments, such as traditional money orders, are marketed nationally on the wholesale level by a few large organizations and locally on a retail level by a wide variety of financial and nonfinancial institutions. On the national scale, the market is highly concentrated, being dominated by only a few large organizations.[4] Entry into this business on a national scale involves overcoming significant barriers since a potential entrant must possess the capability for managing the extensive sales and servicing operation necessary for handling a low unit price, high volume product. Such capabilities frequently are associated with banking organizations of significant size. Applicant already has an established organization of this type, and is one of a limited number of companies with such a capability so as to be regarded as a potential entrant. Applicant's entry into this market would result in increased competition in this industry and may be expected ultimately to result in increased prospects for some deconcentration of the industry in the future. Accordingly, the Board views Applicant's proposal as procompetitive and in the public interest insofar as it relates to the issuance of instruments that are intended primarily for use by consumers.

The Board notes that the wholesale aspect of the money order business in the United States is presently dominated by nonfinancial companies that are not subject to the Federal Reserve System's reserve requirements. The Board believes that the development of new competition in this business on a national scale may not be forthcoming under the present statutory framework unless a degree of competitive equity can be established between the nonfinancial institutions already in the business and potential bank holding company entrants. Such equity cannot be achieved if some competitors are subject to reserve requirements while others are not. In such unique circumstances, the Board finds that there are public benefits associated with enabling a bank holding company to compete with the dominant organizations in this business on an equal basis by permitting the issuance of a consumer-oriented instrument by a nonbank affiliate of a member bank.[5] However, the Board is unconvinced at this time that the public interest would be best served by permitting the issuance and marketing of such instruments without the imposition of a specific limitation on their denomination because of the potential for adverse effects on the reserve base that could result from such action. Reserve requirements serve as an essential tool of monetary policy and, in the Board's view, any action that would have the effect of diminishing the reserve base should be taken only if there are compelling reasons for doing so. The Board is concerned that approval of this proposal without any restrictions on the size of the instruments to be issued would result in an erosion of the reservable deposits of the banking system in an unquantifiable magnitude. There is nothing in the record of this proposal that would support a finding that a sufficiently compelling reason from a public interest standpoint exists to justify such action. Indeed, the public benefits that are likely to flow from Applicant's proposal are directly associated with the consumer-oriented instruments that may be issued. Accordingly, in order to provide such benefits but at the same time to limit the adverse impact on the reserve base that the issuance of such instruments by a nonbanking affiliate of a member bank may have, the Board finds that the imposition of a $1,000 maximum face value on the proposed instruments would be in the public interest.

In addition to increased competition, Applicant proposes to provide a benefit to the public through reduced costs and increased convenience to the purchaser.[6] Toward this end, Applicant states that lost or stolen instruments will be reissued at no charge to the customer and, in cases where a stop-payment cannot be made because an instrument has already been paid, photocopies of the instrument will be provided without charge. The Board believes that this would benefit the purchasers of these instruments as it appears to represent a cost savings when compared to the policies of other companies in the industry.

In summary, the Board finds that consumer-oriented payment instruments are of particular usefulness to persons of limited resources who do not or cannot practically maintain checking accounts; that approval of this proposal will increase the availability to such persons of these instruments, which will be issued by a large financial organization and will enjoy ready acceptability; and that certain of the proposed features of Applicant's instruments will offer greater convenience and benefits to the public and foster increased competition in the industry.[7] The Board further finds that the

[1] Effective January 1, 1976, four of Applicant's up-State banking subsidiaries were merged to form Citibank (New York State), N.A., Buffalo, New York. The two remaining banking subsidiaries were merged into Applicant's lead bank, Citibank, N.A., New York, New York (formerly First National City Bank).

[2] Deposit data are as of December 31, 1975.

[3] Applicant engages in mortgage banking activities through Advance Mortgage Company ("Advance"), Southfield, Michigan, a nonbank subsidiary which Applicant acquired on June 15, 1970. Under the provisions of section 4(a)(2) of the Act, Applicant may not retain the shares of Advance beyond December 31, 1980, without Board approval. By order dated December 26, 1973, the Board denied Applicant's application to retain Advance pursuant to section 4(c)(8) of the Act. (60 Federal Reserve Bulletin 50.)

[4] The Board notes that traditional money orders generally have a maximum face value printed on the instrument, that this ceiling is usually relatively low, perhaps $200 or $500, and that money orders are primarily used to transmit money by members of the consumer public who do not or cannot maintain checking accounts. The Board regards payment instruments of this type as being clearly "consumer-type payment instruments," and believes that the imposition of a $1,000 limitation on the face value of each instrument will assure that it is intended primarily for use by consumers.

[5] It should be noted that the Board's decision under the particular circumstances present in this proposal does not signify any change in the Board's opinion that there is a need for universal reserve requirements on demand deposits of nonmember banks, as well as member banks. As the Board stated in its Order of June 14, 1973, authorizing BankAmerica Corporation, San Francisco, California, to engage in the business of issuing traveler's checks (38 FR 16280 (1973)), it continues to believe that all institutions engaged in deposit banking should be subject to common reserve requirements.

[6] Applicant proposes that one means of providing a benefit to the public through reduced costs to the purchaser will be by offering its instruments to the selling agents at a price that Applicant believes to be lower than the fees charged for competing instruments.

[7] The Board is concerned that because purchasers of these instruments may view them as a close equivalent to a personal check, such persons may misapprehend their right to stop payment on such instruments. Indeed, whether such a right exists may turn upon technicalities in the form of such instruments. So that purchasers are not misled, the Board urges that the issuer disclose on the instruments whether or not such a right exists and, if so, how it may be exercised. While the Board is not at this time requiring such a disclosure as a condition of engaging in the activity, it notes that, if experience should indicate that consumers are in fact being misled in this regard, the subject may be an appropriate one to be dealt with by the Federal Trade Commission or the Board under their respective jurisdictions to define unfair or deceptive practices.

record of this proposal does not support a conclusion that the issuance by a nonbank subsidiary of a bank holding company of a payment instrument in a denomination in excess of $1,000 would offer sufficient public benefits to support approval.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable with respect to the activity of issuing consumer-oriented payment instruments having a maximum face value of $1,000. This determination is subject to the considerations set for in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The activities approved hereby shall be commenced not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of New York.

By order of the Board of Governors,[3] effective March 11, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-8343 Filed 3-18-77;8:45 am]

REPUBLIC OF TEXAS CORP.

Order Approving Retention of Republic Commerce Company, Republic Money Orders, Inc., and Republic Money Orders of California, Inc., All of Dallas, Texas

Republic of Texas Corporation, Dallas, Texas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), to retain ownership of the voting shares of Republic Commerce Company, Dallas, Texas ("Company"), and indirect ownership of the voting shares of Republic Money Orders, Inc. ("RMO"), and Republic Money Orders of California, Inc. ("RMO of California"), both of Dallas, Texas. Company engages in no activities directly but merely serves as owner of record of all shares of RMO. RMO engages in the activity of issuing money orders and travelers checks to third party agents who, in turn, sell the instruments at the retail level.[1] RMO of California is a wholly-owned subsidiary of RMO which, until 1972, also issued money orders and travelers checks. RMO of California is inactive and will be liquidated in 1985 when any money orders that remain unclaimed at that time escheat to the State of California.

The Board has previously invited comment on a proposal to amend its Regulation Y to add the activity of issuing and selling payment instruments, such as money orders, to the list of activities permissible pursuant to section 4(c)(8) of the Act (41 FR 14902). In addition, notice of the instant application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (40 FR 44634 and 41 FR 14902). The time for filing comments and views has expired, and the Board has considered the entire record of this proposal, including all comments received, and has determined that the activity of issuing and selling money order-like payment instruments is closely related to banking. However, the Board has decided that it will leave the rule-making proceeding open and that it will not at present amend Regulation Y to include this activity among those generally permissible for bank holding companies. Rather, it will consider applications for permission to engage in the activity on a case-by-case basis, applying the public benefits test of section 4(c)(8) to the facts in each case. The Board also has determined that the application of Republic of Texas Corporation should be approved.

By Order dated October 25, 1973, the Board approved the application of Applicant to become a bank holding company through the acquisition of Republic National Bank of Dallas ("Republic Bank") and 29.99 per cent of the voting shares of Oak Cliff Bank and Trust Company, Dallas, Texas. Applicant became a bank holding company on May 9, 1974. At the time that Applicant became a bank holding company, it also acquired, from Republic Bank, direct ownership of Company. Republic Bank was itself a bank holding company by virtue of the 1970 Amendments to the Act and owned various bank and nonbank interests. RMO and its subsidiary, RMO of California, were established as de novo subsidiaries of the profit sharing plan of Republic Bank. Pursuant to the provisions of section 4(a)(2) of the Act, Applicant had two years, subject to the possibility of three one-year extensions, from the date on which it became a bank holding company to divest its nonbank activities or, in the alternative, to apply to the Board for approval to retain them. In this proposal Applicant has applied to retain its money order activities. The Board regards the standards under section 4(c)(8) of the Act for retention of shares of a company to be the same as the standards for a proposed acquisition.

In order to authorize a bank holding company to engage in a nonbanking activity pursuant to section 4(c)(8) of the Bank Holding Company Act ("Act"), the Board must first determine whether the activity is closely related to banking or managing or controlling banks. The Board finds that banks historically have been in the business of issuing money orders and similar payment instruments, such as cashiers checks and certified checks. Such instruments evolved from the need for a safe method of transmitting funds over long distances and the need for a method of assuring payments. They are a functional equivalent of cash when used to effect payments, and are of particular usefulness to persons of limited resources who do not or cannot practically maintain checking accounts. The instruments that are the subject of this proposal extend, on an economical and convenient basis, the efficient payments mechanism of the commercial banking system to persons other than demand deposit customers of banks. Since the proposed activity is comparable to certain functions of banks, involves financial skills generally possessed by banks, and is a service that banks traditionally have performed, the Board concludes that the proposed activity is closely related to banking.

In order to approve the subject application, the Board must also find that the performance of the proposed activity by an affiliate of Applicant "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." This balancing test necessitates a positive showing of public benefits, outweighing possible adverse effects of any proposal, before an application may be approved. An applicant seeking approval to engage in a nonbanking activity under this section must bear the burden of showing the public benefits that would flow from its proposal.

Applicant, the fourth largest banking organization in Texas, controls eight banks with total domestic deposits of approximately $3 billion, representing about 6.5 per cent of the total deposits in commercial banks in the State.[2] In addition, Applicant engages indirectly through a group of corporations, referred to collectively as The Howard Corporation, in various nonbanking activities that are described in a Board determination dated September 10, 1973, relating to the grandfather benefits of Republic Bank (59 Federal Reserve Bulletin 768 (1973)). The Board has previously ruled that Applicant would not be a successor to the grandfather privileges of Republic Bank, and Applicant has committed, and is required, to dispose of the impermissible activities within the two-year statutory period prescribed in § 4(a)(2) of the Act.[3]

[3] Voting for this action: Vice Chairman Gardner and Governors Wallich, Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governor Coldwell.

[1] By Order of June 25, 1976, the Board approved the subject application as it related to the issuance and sale of travelers checks (62 Federal Reserve Bulletin 630).

[2] Unless otherwise noted, all banking data are as of December 31, 1975, and reflect bank holding company formations and acquisitions approved through December 31, 1976.

[3] The Federal Reserve Bank of Dallas, acting pursuant to delegated authority, has extended the period within which Applicant must dispose of its impermissible activities for one year to May 9, 1977, as permitted under section 4(a)(2) of the Act.

RMO was established de novo by Republic Bank in 1959. It sells money orders and travelers checks through outlets located in all 50 States and some foreign countries. In 1976 it had total money order issues of approximately $1 billion.[4] In view of the highly concentrated nature of the money order industry and the fact that RMO was established de novo, as a subsidiary of Applicant's lead bank, the Board concludes that Applicant's retention of RMO would not result in any adverse effects on competition in any relevant area. Furthermore, there is no evidence in the record to indicate that the proposed retention of RMO by Applicant would lead to an undue concentration of resources, unfair competition, conflicts of interests, or unsound banking practices.

The Board notes that the wholesale aspect of the money order business in the United States is presently dominated by a few nonfinancial companies that are not subject to the Federal Reserve System's reserve requirements. The Board believes that the development of new competition in this business on a national scale may not be forthcoming under the present statutory framework unless a degree of competitive equity can be established between the nonfinancial institutions already in the business and potential bank holding company entrants. Such equity cannot be achieved if some competitors are subject to reserve requirements while others are not. In such unique circumstances, the Board finds that there are public benefits associated with enabling bank holding companies to compete with the dominant organizations in this business on an equal basis by permitting what is essentially a consumer-oriented demand deposit business to be conducted by nonbank affiliates of member banks.[5]

Unlike other issuers of money orders, RMO does not set a schedule of commissions that its agents must charge. As a result, RMO's agents have greater flexibility in dealing with retail customers and, in certain circumstances, may reduce retail prices. In addition to possible lower rates, continued affiliation of Applicant and RMO should increase the possibilities that RMO will expand the number of retail outlets that handle its money orders. Money orders are of particular usefulness to persons of limited resources who do not or cannot practically maintain checking accounts, and approval of this proposal will assure the continued availability to such persons of these instruments, which are issued by a large financial organization and enjoy ready acceptability. Accordingly, it is the Board's view that approval of the subject application would result in continued benefits to the public and is, therefore, in the public interest.[6]

Based upon the foregoing and other considerations reflected in the record, the Board has determined, in accordance with the provisions of section 4(c)(8) of the Act, that consummation of this proposal can reasonably be expected to result in benefits to the public that outweigh possible adverse effects. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[7] effective March 11, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-8344 Filed 3-18-77;8:45 am]

VALLEY BANCORPORATION

Acquisition of Bank

Valley Bancorporation, Appleton, Wisconsin, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Shawano National Bank, Shawano, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 12, 1977.

Board of Governors of the Federal Reserve System, March 15, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-8345 Filed 3-18-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-433; FDAA-3035-EM]

MICHIGAN

Emergency Declaration and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on March 2, 1977, the President declared an emergency as follows:

I have determined that the impact of a drought on the State of Michigan is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93-288. I therefore declare that such an emergency exists in the State of Michigan

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Robert E. Connor, FDAA Region V, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency:

The Counties of:

Alger	Luce
Baraga	Mackinac
Delta	Marquette
Dickinson	Menominee
Gogebic	Ontonagon
Houghton	Schoolcraft
Iron	

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected areas effective the date of this Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: March 2, 1977.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-8346 Filed 3-18-77;8:45 am]

[4] All of the money orders Applicant now issues have a maximum face value of $200, and this limit is specified on the instrument. The Board regards Applicant's money orders as being essentially a consumer-oriented type of payment instrument, and believes that in no event should the instruments have a face value greater than $1,000, in order to assure that they are intended primarily for use by consumers.

[5] It should be noted, however, that the Board's decision with respect to money orders under the particular circumstances present in this proposal does not signify any change in the Board's opinion that there is a need for universal reserve requirements on demand deposits of nonmember banks, as well as member banks. As the Board stated in its Order of June 14, 1973, authorizing BankAmerica Corporation, San Francisco, California, to engage in the business of issuing traveler's checks (38 FR 16280 (1973)), it continues to believe that all institutions engaged in deposit banking should be subject to common reserve requirements.

[6] The Board is concerned that because purchasers of money orders may view this instrument as a close equivalent to a personal check, such persons may misapprehend their right to stop payment on such instruments. Indeed, whether such a right exists may turn upon technicalities in the form of such instruments. So that purchasers are not misled, the Board urges that the issuer disclose on the instruments whether or not such a right exists and, if so, how it may be exercised. While the Board is not at this time requiring such a disclosure as a condition of engaging in the activity, it notes that, if experience should indicate that consumers are in fact being misled in this regard, the subject may be an appropriate one to be dealt with by the Federal Trade Commission or the Board under their respective jurisdictions to define unfair or deceptive practices.

[7] Voting for this action: Vice Chairman Gardner and Governors Wallich, Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governor Coldwell.

[Docket No. NFD-432; FDAA-3034-EM]

NEW MEXICO

Emergency Declaration and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on March 2, 1977, the President declared an emergency as follows:

I have determined that the impact of a drought on the State of New Mexico is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93-288. I therefore declare that such an emergency exists in the State of New Mexico.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Joe D. Winkle, FDAA Region VI, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency:

The Counties of:

Colfax	San Juan
Harding	Union
Quay	

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected areas effective the date of this Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: March 2, 1977.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-8250 Filed 3-18-77;8:45 am]

[Docket No. NFD-437; FDAA-3033-EM]

NORTH CAROLINA

Emergency Declaration and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on March 2, 1977, the President declared an emergency as follows:

I have determined that the impact of drought and freezing on the State of North Carolina is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93-288. I therefore declare that such an emergency exists in the State of North Carolina.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Thomas P. Credle, FDAA Region IV, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency:

The Counties of:

Alamance	Lincoln
Cabarrus	Montgomery
Caswell	Moore
Catawba	Orange
Davie	Person
Davidson	Rockingham
Durham	Rowan
Forsyth	Stokes
Franklin	Vance
Granville	Wake
Guilford	Warren
Iredell	Wilson
Johnston	Yadkin

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected areas effective the date of this Notice.

(Catalog of Federal Domestic Assistance No. 14,701, Disaster Assistance.)

Dated: March 2, 1977.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-8247 Filed 3-18-77;8:45 am]

[Docket No. NFD-435; FDAA-3033-EM]

NORTH CAROLINA

Amendment to Notice of Emergency Declaration

Notice of emergency for the State of North Carolina dated March 2, 1977, is hereby amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of March 2, 1977:

The Counties of:

Cleveland	Mecklenburg
Gaston	Surry

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: March 4, 1977.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-8248 Filed 3-18-77;8:45 am]

[Docket No. NFD-439 FDAA-3016-EM]

NORTH DAKOTA

Amendment to Notice of Emergency Declaration

Notice of emergency for the State of North Dakota dated July 21, 1976, and amended on December 30, 1976, is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of July 21, 1976:

The Counties of:

Kidder	Stutsman

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: March 1, 1977.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-8249 Filed 3-18-77;8:45 am]

[Docket No. NFD-434; FDAA-3018-EM]

VIRGINIA

Amendment to Notice of Emergency Declaration

Notice of emergency for the State of Virginia dated October 15, 1976, and amended on November 30, 1976, January 7, 1977, January 31, 1977, and February 24, 1977, is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of October 15, 1976:

The Counties of:

Buckingham	Nelson

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: March 4, 1977.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-8251 Filed 3-18-77;8:45 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Walter H. Frey, Millstone West, RD 2, Box 40, Wister, Oklahoma 74966.

OMB NO. 42-R1170

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE
LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (one only)
[X] IMPORT OR EXPORT LICENSE [ ] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
TO IMPORT
1,1 WHITE EARED PHEASANT FROM
CAPTIVE RAISED STOCK FROM CANADA

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
WALTER H. FREY
MILLSTONE WEST
RD 2 BOX 40
WISTER, OKLAHOMA 74966

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING.

[X] MR. [ ] MRS. [ ] MISS [ ] MS.	HEIGHT 6'4	WEIGHT 180
DATE OF BIRTH SEPT 4, 1942	COLOR HAIR BLOND	COLOR EYES BLUE
PHONE NUMBER WHERE EMPLOYED 918-647-2128	SOCIAL SECURITY NUMBER 157-32-7638	

OCCUPATION
FARMER + INSTRUCTOR OF ECOLOGY

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE PERMIT
NONE

5. IF "APPLICANT" IS A BUSINESS CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING.
EXPLAIN TYPE OF LINE OF BUSINESS, AGENCY, OR INSTITUTION
DOES NOT APPLY

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
DOES NOT APPLY

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
DOES NOT APPLY

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
ON MY FARM
1 MILE WEST OF WISTER, OK
RD 2 BOX 40

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [X] YES [ ] NO
(If yes, list license or permit numbers)
S-2331 MIGRATORY WATERFWL

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? [ ] YES [ ] NO
(If yes, list jurisdictions and type of documents)
NOT NEEDED

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$

10. DESIRED EFFECTIVE DATE
SPRING 77
AS SOON AS POSSIBLE

11. DURATION NEEDED
3 WEEKS

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (see 50 CFR 13.12(b) for general requirements) IF ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50CFR PART 17.22 PERMIT FOR SCIENTIFIC PURPOSES OR FOR THE ENHANCEMENT OF PROPAGATION OR SURVIVAL

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (Name)
Walter H. Frey

DATE
JAN 6, 1977

ATTACHMENT

TITLE 50 CHAPTER 1 SUBCHAPTER B
SECTION 17.22

1. 1,1 White eared pheasans (sic) *Crossopticon Crossopticon* 1976 hatch, to be imported from aviary raised stock raised in Canada.

2. The pheasants were born in captivity.

3. Birds will be shipped in padded boxes by Air.

4. These birds were raised in the aviaries of Ed Miller, 315 Kingsway N, Port Alberi, B.C., Canada.

5. The pheasants will be kept at the farm (55 acres) of the applicant, 1 mile west of Wister, OK OH HW7 271, Walter H. Frey, Millstone West, Rd. 2 Box 40 Wister, OK 74966.

ii I have been raising assorted birds on my former farm in New Jersey since 1965. I have done field work in South America and Africa. The thesis for my masters degree from Rutgers University in New Jersey is on factors affecting breeding of Swinhoe Pheasants. I have raised young of the following pheasants species:

Golden, amherst, silver, ringneck, white crested kaliji, Siamese firebacks, Edwards, Mikado, Swinhoe, 13 Cue eared Grey Peacock, Germain's peacock, Impeyan. I have shipped and received all of the above and have imported and exported a good number of these in the past. (Before 1973.)

III. I am willing to cooperate in a breeding program and will keep accurate records to facilitate same.

IV. Shipping containers are plywood 12x 24x18". Tops are padded with foam rubber. Feed and water is in box in sufficient quantity for 3 days. Maximum trip time should be 36 hours.

V. I have lost birds in New Jersey from predators. A few young birds killed each other. A few birds died of unknown causes (autopsy showed no specific causal agents). New pens in Oklahoma are as predator proof as possible. Young birds are more spread out in movable pens medicated water is used 2x per month.

7. If issued a permit I will bus the pair of pheasants from Ed Miller, who will sell them to me. No contracts or agreements have been made other than that.

8. I want to import 1 pair of white eared pheasants to increase our CSSP in the United States from Ed Miller who has a surplus of them at this time.

II. The birds would be shipped by air to Tulsa, Oklahoma and by car to my farm in Wister.

III. This activity will increase the CSSP of this species in the U.S. It will give this species a better chance for survival, it will expose many people to this species who would otherwise never have a chance to be even aware of it.

IV. Some offspring would be traded or sold to other breeders. In case of my death the collection would be sold to other breeders or maintained by my son.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWC/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-606-07; please refer to this number when submitting comments. All relevant comments received on or before April 20, 1977 will be considered.

Dated: March 16, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-8319 Filed 3-18-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Alfred R. Mayer, 403 S. Race Street, Denver, Colorado 80209.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE
LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Check one only)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. DESCRIPTION OF ACTIVITY FOR WHICH LICENSE OR PERMIT IS REQUESTED.
Purchase, possession, transportation of Turquoise parakeets and Scarlet-chested parakeets for propagation.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Alfred R. Mayer
403 South Race Street
Denver, Colorado 80209
(303) 722-0467

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

☒ MR. ☐ MRS. ☐ MISS ☐ MS.	HEIGHT	WEIGHT
	6'	190 lbs.
DATE OF BIRTH	COLOR HAIR	COLOR EYES
2/12/20	Gray	Blue
PHONE NUMBER WHERE EMPLOYED	SOCIAL SECURITY NUMBER	
N/A	399 09 6580	

OCCUPATION
U.S. Civil Service Annuitant

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
None

5. IF "APPLICANT" IS A CORPORATION, PARTNERSHIP, OR OTHER ENTITY, GIVE NAME, TITLE, AND PHONE NUMBER OF PRINCIPAL OFFICER, PARTNER, ETC.
N/A

IF "APPLICANT" IS A CORPORATION, GIVE STATE IN WHICH INCORPORATED
N/A

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
403 South Race Street
Denver, Colorado 80209

7. DO YOU HOLD ANY OTHER FEDERAL FISH AND WILDLIFE LICENSE, PERMIT, OR CERTIFICATE? ☐ YES ☒ NO
(If yes, list)

8. IF REQUIRED BY ANY STATE, HAVE YOU OBTAINED THE APPROPRIATE STATE APPROVAL FOR THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list)

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$

10. DESIRED EFFECTIVE DATE
June 1, 1977

11. PERIOD FOR WHICH REQUESTED
2 years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED IS SUMMARIZED BELOW. UNLESS OTHERWISE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST ANY ADDITIONAL STATEMENTS OR EXPLANATORY MATERIAL ATTACHED. IF NO ATTACHMENTS ARE PROVIDED.
50 CFR Part 17 Section 17.22

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In full)
Alfred R Mayer

DATE
March 7, 1977

3-200
(5-74)

ATTACHMENT TO APPLICATION FOR ENDANGERED SPECIES PERMIT FOR ALFRED R. MAYER

50 CFR 17 SUBPART C, SECTION 17.22

(a) (1) This permit is being requested for the purchase, possession, transportation, and propagation of Scarlet-Chested Parakeets (*Neophema Splendida*) 4 males and 4 females; Turquoise Parakeets (*Neophema Pulchella*) 4 males and 4 females. All of the parakeets will be about six months of age.

(a) (2) The wildlife sought to be covered by this permit was born in captivity.

(a) (3) Not applicable.

(a) (4) The wildlife to be covered by this permit was born and raised in the United States of America in the State of California.

(a) (5) The wildlife will be maintained in a newly constructed building in the rear of the lot on which my abode is located, 403 South Race Street, Denver, Colorado 80209 U.S.A.

(a) (6) (i) The facility was built as an addition to my existing garage. An 8-inch thick brick wall separates the aviary from the garage. There is no doorway directly from the garage to aviary. One must go out of the garage to go into the aviary. A building permit was obtained from the city of Denver. It was constructed according to the present code.

1. Thickened-edge concrete slab with reinforced bars.
2. Walls 2" x 4", 16" centers, 3½" fiberglass insulation.
3. Ceiling 2" x 4" approved trusses, 24" centers, 8½" fiberglass insulation.
4. Door 6'8" high, 32' wide.
5. Windows two—2' x 4' aluminum, weather stripped with screens.
6. Mechanically operated ventilating fan in west wall.
7. Lighting from four 8' fluorescent tubes.
8. Interior walls and ceiling covered with dry wall and painted with a non-toxic rubber based enamel.
9. Interior dimensions 12'3" by 13'7" with a 7' ceiling.
10. Heating—one 4' and one 8' Intertherm hot water unit.
11. Electrical supply—50 amp service with breakers.

(a) (6) (ii) I have had 30 years of experience in the keeping and propagation of birds and animals as a hobby. The activity will be solely conducted by me.

(a) (6) (iii) I am willing to participate in a cooperative breeding program and maintain accurate records relating to the activity.

(a) (6) (iv) The shipping containers will be made of ¼" plywood. The dimensions are 8" wide and 12" long and 7" high. This if for two birds only. There will be a 2" x 3" opening will be covered with a 2" x ½" rest of the container—sides, bottom, and top will be solid with no openings. The 2" x 3" opening will be covered with a 2" x 1" welded wire. The interior of the container will be lined with ½" foam rubber. The floor of the container will be covered by about ½" of seed mixture. Moisture will be furnished by a piece of apple or a piece of fresh corn-on-the-cob. The birds will be transported by air. They will not be in the container more than five hours, since I will be on the same aircraft as the birds. (See attached illustration of shipping container.)

(a) (6) (v) I have had no mortalities in my aviary in the past five years as a result of disease. About three years ago I had two Peach Face Love Birds die of old age. One was 14 years old and the other was 16 years old. A post-mortem was done on each bird. There was no evidence of disease or any abnormality.

I maintain a closed aviary. I do line-breeding in my birds. The last new birds were brought in during August 1972. If and when new stock is brought in, it is quarantined and closely observed for at least thirty days.

(a) (7) Not applicable.

(a) (8) (i) I feel that the permit is necessary to me in that I will be able to legally obtain, possess, and propagate endangered species of Australian Parakeets and thus add to the known number of captive-bred birds in the world.

(a) (8) (ii) The birds will be housed in a rodent and vermin-proof aviary. Each pair will be kept in a separate compartment of adequate size, compatible to their size and disposition. The aviary is weather-proof and equipped with automatic electric baseboard heaters. (Intertherm)

The birds will be fed a diet of canary, millet, oat groats, sunflower seeds, and mineral grit. They will also be fed fresh fruits and vegetables daily. At the end of the day, the perishable foods not eaten will be removed and discarded.

The drinking water will be enriched with an amino acid solution with Vitamin B complex. The water will be changed daily. During the breeding season, the birds will be given 14 hours of natural and artificial light. This is necessary so that the young can be adequately fed by the parents.

(a) (8) (iii) This activity should result in a known increase in the population of Scarlet-Chested and Turquoise Parakeets.

At the present time I am working with young people who are interested in the bird-keeping hobby. If I am granted this permit, it will allow me to obtain birds of which there are none like them in this area and allow these people to see them and also become interested in their propagation. Any observation that I make during this activity that will increase the propagation capabilities of Scarlet-Chested and Turquoise Parakeets will be shared with interested parties.

(a) (8) (iv) If and when the activity is culminated, the birds will be placed in the possession of other qualified breeders who have a valid permit for the activity.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-534-07; please refer to this number when submitting comments. All relevant comments received on or before April 20, 1977 will be considered.

Dated: March 16, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-8320 Filed 3-18-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CHIEF, BRANCH OF ADJUDICATION, DIVISION OF TECHNICAL SERVICES, COLORADO STATE OFFICE

Redelegation of Authority

1. Pursuant to authority contained in Sec. 1.1(a), Bureau Order No. 701 of July 23, 1964, as amended, I hereby redelegate to the Chief, Branch of Adjudication, in the Division of Technical Services, authority to take action on the following matters:

Sections 2.2(b), 2.3(a), 2.5 (b) and (c), 2.6 (a) through (j) and (l), and 2.9 (a) through (f), (h) through (s), (u), (x) and (y), of Part II of Bureau Order No. 701, supra.

2. The Chief, Branch of Adjudication, may redelegate any of the above authority to his subordinate Team Leaders. Any redelegation of the above authority must be approved by the State Director and published in the FEDERAL REGISTER.

3. The Chief, Branch of Adjudication may, by written order, designate any qualified employee of the Branch to perform the functions of his position in his absence. Such order will be approved by the Chief, Division of Technical Services.

4. This redelegation of authority supersedes the redelegation to Chiefs, Branch of Lands Operations and Branch of Minerals Operations published in the FEDERAL REGISTER July 21, 1971.

5. Effective date. This redelegation will become effective March 16, 1977.

DALE R. ANDRUS,
State Director.

Approved: March 9, 1977.

GEORGE L. TURCOTT,
Associate Director.

[FR Doc.77-8333 Filed 3-18-77;8:45 am]

[ES 17056]

MINNESOTA

Proposed Withdrawal and Reservation of Lands

MARCH 17, 1977.

On February 22, 1977, the National Park Service filed application, ES 17056, for the withdrawal of the lands described below, which are presently under the jurisdiction of the Bureau of Land Management, from settlement, sale, location, or entry under all of the general land laws, including the mining and mineral leasing laws, subject to valid existing rights. The lands would be included in Voyageurs National Park and would be administered in accordance with applicable laws and regulations for National Park Lands.

On or before April 20, 1977, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the Director, Eastern States, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, Maryland 20910, on or before April 21, 1977. Notice of a public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Section 2351.16B.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized office will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

For a period of two years from the date of publication of this notice in the FEDERAL REGISTER, the lands will be segregated from entry as specified above unless the application is rejected or the withdrawal is approved prior to that date. If the withdrawal is approved by the Secretary, it will be for an indefinite period, and the lands will remain segregated.

The lands involved in the application are:

T. 69 N., R. 19 W.,
- Sec. 14, unsurveyed island in SE¼NE¼;
- Sec. 18, Government Lot 4;
- Sec. 19, unsurveyed island in SW¼SE¼;
- Sec. 20, unsurveyed island in NW¼SE¼;
- Sec. 23, unsurveyed island in SE¼NW¼;
- Sec. 27, unsurveyed island in NW¼SE¼;
- Sec. 28, unsurveyed island in NE¼NW¼ and unsurveyed island in SE¼NW¼;
- Sec. 30, unsurveyed island in NW¼SE¼; and unsurveyed island in SE¼NE¼;
- Sec. 31, unsurveyed island in NW¼NW¼.

T. 70 N., R. 19 W.,
- Sec. 28, unsurveyed island in NE¼NE¼ and unsurveyed island in NE¼NE¼;
- Sec. 30, unsurveyed island in NW¼SE¼;
- Sec. 33, unsurveyed island in NE¼NE¼;
- Sec. 34, unsurveyed island in SW¼NW¼.

T. 69 N., R. 20 W.
- Sec. 12, unsurveyed island in SW¼SE¼;
- Sec. 13, unsurveyed island in SW¼NE¼ and unsurveyed island in SE¼NE¼;
- Sec. 14, unsurveyed island in SE¼NE¼, unsurveyed island in NE¼SW¼ and unsurveyed island in NW¼SW¼;
- Sec. 15, unsurveyed island in SW¼SW¼;
- Sec. 20, unsurveyed island in NE¼NE¼, unsurveyed island in SW¼NW¼ and unsurveyed island in NW¼SW¼;
- Sec. 22, unsurveyed island in SE¼NW¼ and unsurveyed island in NW¼SW¼;
- Sec. 23, unsurveyed island in SW¼SW¼ and unsurveyed island in SW¼SW¼;
- Sec. 25, unsurveyed island in NE¼NE¼;
- Sec. 26, unsurveyed island in SW¼NE¼, unsurveyed island in SE¼NE¼ and unsurveyed island in SE¼NW¼.

T. 70 N., R. 20 W.,
- Sec. 34, unsurveyed island in NE¼SW¼;
- Sec. 35, unsurveyed island in NW¼SE¼.

T. 69 N., R. 21 W.,
- Sec. 3, unsurveyed island in NE¼NE¼, unsurveyed island in NE¼NE¼, unsurveyed island in SW¼NW¼ and unsurveyed island in SW¼NW¼;
- Sec. 4, unsurveyed island in NW¼SW¼;
- Sec. 9, unsurveyed island in SW¼SW¼ and unsurveyed island in NE¼SE¼.
- Sec. 10, unsurveyed island in NE¼NW¼, unsurveyed island in NE¼NW¼, unsurveyed island in SE¼NW¼ and unsurveyed island in NE¼SW¼;
- Sec. 12, unsurveyed island in NW¼SE¼;
- Sec. 13, unsurveyed island in NE¼NE¼ and unsurveyed island in NW¼SW¼;
- Sec. 14, unsurveyed island in NW¼NE¼, unsurveyed island in NW¼NE¼ and unsurveyed island in NW¼NE¼;
- Sec. 21, unsurveyed island in NW¼NW¼;
- Sec. 23, unsurveyed island in NW¼SE¼ and unsurveyed island in SW¼SE¼;
- Sec. 25, unsurveyed island in SW¼NE¼;
- Sec. 26, unsurveyed island in SW¼NE¼.

T. 70 N., R. 21 W.,
- Sec. 28, unsurveyed island in SE¼SW¼;
- Sec. 30, unsurveyed island in SW¼NE¼ and unsurveyed island in SW¼SE¼;
- Sec. 32, unsurveyed island in NW¼SW¼;
- Sec. 33, unsurveyed island in SE¼NW¼ and unsurveyed island in SW¼SE¼;
- Sec. 34, unsurveyed island in SW¼NW¼.

The area aggregates approximate 50.00 acres.

All communications in connection with this withdrawal should be addressed to Director, Eastern States, Bureau of Land

Management, 7981 Eastern Avenue, Silver Spring, Maryland 20910.

LOWELL J. UDY,
Director, Eastern States.

[FR Doc.77-8459 Filed 3-18-77;8:45 am]

[M 36390]

MONTANA

Proposed Withdrawal and Reservation of Lands; Correction

MARCH 10, 1977.

The Notice of Proposed Withdrawal under serial No. M 36390 dated February 25, 1977, appearing in the March 3, 1977 issue of the FEDERAL REGISTER, at pages 12264-12265 is hereby corrected by substituting a comma for the period at the end of paragraph one and adding "including the mining and mineral leasing laws and the Geothermal Steam Act of 1970, subject to valid existing rights."

ROLAND F. LEE,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-8191 Filed 3-18-77;8:45 am]

Office of Hearings and Appeals

[Docket No. M 77-118]

B.G.P.T. COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), B.G.P.T. Coal Co., 836 W. Spruce Street, Shamokin, Pennsylvania 17872, has filed a petition to modify the application of 30 CFR 75.301, air quality, quantity, and velocity, to its No. 6 Slope Mine, located in Shamokin, Pennsylvania.

The substance of Petitioner's statement is as follows: 1. Petitioner requests that 30 CFR 75.301 be modified for this anthracite mine to require, in part, that the minimum quantity of air reaching each working face shall be 1,500 cubic feet a minute, that the minimum quantity of air reaching the last open crosscut in any pair or set of developing entries shall be 5,000 cubic feet a minute, and that the minimum quantity of air reaching the intake end of a pillar line shall be 5,000 cubic feet a minute and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

2. This petition is submitted for the following reasons:

A. Air sample analysis history reveals that harmful quantities of methane are nonexistent in the mine.

B. Ignition, explosion and mine fire history are nonexistent for the mine.

C. There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases.

D. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

E. Extremely high velocities in small cross-sectional areas of airways and manways required in friable anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners.

F. High velocities and large air quantities cause extremely uncomfortable damp and cold conditions in the already uncomfortable, wet mines.

G. Difficulty in keeping miners on the job and securing additional mine help is due primarily to the conditions cited.

3. Finally, the Petitioner avers that a decision in its favor will in no way provide less than the same measure of protection afforded the miners under the existing standard.

4. A copy of this petition will be posted at the mine by the operator.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before April 20, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

MARCH 9, 1977.

[FR Doc.77-8192 Filed 3-18-77;8:45 am]

[Docket No. M 77-121]

LESTER & SIMPSON COALS, INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Lester & Simpson Coals, Inc., Box 50, Oakwood, Virginia 24631, has filed a petition to modify the application of 30 CFR 75.1101, deluge-type water sprays, foam generators; main and secondary belt-conveyor drives, to its No. 11 Mine, located in McDowell County, West Virginia.

The substance of Petitioner's statement is as follows:

1. Due to the fact that the elevation of the mine is 2,300 feet and at this point, there is no water, the closest water being approximately 2 miles, Petitioner requests a petition of modification concerning water lines along belt conveyors.

2. Petitioner will have a man to patrol the belt daily. Also, permanent stopping will be at the mouth of the drift with a door in the stopping. The belt is on a separate split of air, directed to the return and will not interfere with the working face.

3. The life of the mine will be about 18 months. Full extension of the belt line will be 1,800 feet. At present the belt line extends 1,200 feet in the mine.

4. The belt head extends outside 50 feet away from the high wall. Ten-pound fire extinguishers along with 250 pounds of rock dust are located every 250 feet in the belt.

5. Petitioner has installed a Pyott-Boone fire sensing unit, model #210, the entire length of the belt, and it is in proper working condition. Petitioner also has a man at the belt head 8 hours daily.

6. Eastern's Keystone No. 1 mine and Lo-Grind Coal Company's mine are directly underneath Petitioner's mine, which hinders the drilling of a well.[2]

REQUESTS FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments within 30 days from the date of publication of this notice in the FEDERAL REGISTER. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Office of Hearings and Appeals.

MARCH 9, 1977.

[FR Doc.77-8193 Filed 3-18-77;8:45 am]

[Docket No. M 77-122]

THREE J. COAL, INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Three J. Coal, Inc., Route 2, Box 268AA, Pikeville, Kentucky 41501, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies; electrical face equipment, to its No. 1 Mine, located in Pike County, Kentucky.

The substance of Petitioner's statement is as follows:

1. Petitioner feels that by having canopies installed on its equipment it is creating a hazard to the operator.

2. Petitioner's equipment consists of the following: One (1) Paul roof bolting machine, height is 28 inches. One (1) AR4 Elkhorn scoop, height is 28 inches. One (1) S & H scoop, height is 28 inches.

3. The No. 1 Mine is in the Elkhorn No. 2 Seam which ranges from 40 to 44 inches in height. In this seam Petitioner daily runs into rolling top. Petitioner also has rolls in the floor which contribute to the difficulty of using canopies. By

[2] An enclosed map is available for inspection at the address listed in the last paragraph of this notice.

installing canopies on the equipment Petitioner is limiting the vision of the operators of the equipment.

4. Petitioner feels that since the equipment operator's vision is limited and because of the position required in order to be seated in the equipment, the installation of canopies could be a contributing factor to accidents that may arise.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before April 20, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

MARCH 9, 1977.

[FR Doc.77-8194 Filed 3-18-77;8:45 am]

National Park Service

CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK COMMISSION

Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held on Thursday, April 14, 1977, at 10:00 a.m., at the National Capital Region Conference Room, 1100 Ohio Drive, SW, Washington, D.C. 20242.

The Commission was established by Public Law 91-664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Mr. Donald R. Frush (chairman), Hagerstown, Maryland.
Mrs. Bonnie Troxell, Cumberland, Maryland.
Miss Nancy Long, Glen Echo, Maryland.
Mrs. Constance Morella, Bethesda, Maryland.
Mr. Kenneth S. Rollins, Brookmont, Maryland.
Mr. Vladimir A. Wahbe, Baltimore, Maryland.
Mr. Edwin F. Wesely, Jr., Brookmont, Maryland.
Mr. James B. Coulter, Annapolis, Maryland.
Mrs. Dorothy Grotos, Arlington, Virginia.
Mr. James H. Gilford, Frederick, Maryland.
Mr. Lorenzo W. Jacobs, Jr., Washington, D.C.
Mr. Dayton C. Casto, Jr., Great Cacapon, West Virginia.
Mr. Silas F. Starry, Shepherdstown, West Virginia.
Mr. Rockwood H. Foster, Washington, D.C.
Mr. R. Lee Downey, Williamsport, Maryland.
Mr. John C. Frye, Gapland, Maryland.
Mrs. Kenneth Pohlmann, Dickerson, Maryland.

The matters to be discussed at this meeting include:

1. Remarks, Commission Chairman.
2. Remarks, Secretary of the Interior (or designee).
3. Remarks, Regional Director, National Capital Region.
4. Remarks, Assistant for Advisory Boards and Commissions.
5. Overview of Development and Planning.
6. Commission organization, committees, meetings and agendas, procedures.
7. Pending legislation related to the C&O Canal.

The meeting will be open to the public. However facilities and space for accommodating members of the public are limited and it is expected that not more than 20 persons will be able to attend the sessions. Any member of the public may file with the Committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact William R. Failor, Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, MD 21782, telephone area code 301-432-2231. Minutes of the meeting will be available for public inspection 2 weeks after the meeting at Park Headquarters, Sharpsburg, Maryland.

Dated: March 11, 1977.

MANUS J. FISH, Jr.,
Regional Director, National Capital Region.

[FR Doc.77-8375 Filed 3-18-77;8:45 am]

Office of the Secretary

[INT FES 77-9]

PROPOSED DES MOINES RIVERFRONT DEVELOPMENT PROJECT

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the proposed acquisition and development of the Des Moines Riverfront.

Lands totaling 650 acres will be acquired in the City of Des Moines, Iowa. The project would be financed with a Federal grant from the Land and Water Conservation Fund which would be matched with an equal amount of City money. The environmental statement discusses the immediate acquisition of 650 acres and the long-range proposal of the development of a 12-mile long river recreation corridor through the City.

Copies are available for inspection at the following locations:

Office of Information, Bureau of Outdoor Recreation, Room 237, Interior South Building, 1951 Constitution Avenue NW., Washington, D.C. 20240.
Bureau of Outdoor Recreation, Mid-Continent Region, 603 Miller Court, Lakewood, Colorado.
State Clearinghouse, Office for Planning and Programming, State Capitol, Des Moines, Iowa.
CITY OF DES MOINES
City Manager's Office, 1st and Locust.
City Clerk's Office, 1st and Locust.
Plan and Zoning Commission, Armory Building, East 1st and Des Moines.

Dated: March 14, 1977.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.77-8334 Filed 3-18-77;8:45 am]

[DES 77-10]

PROPOSED LIBERTY STATE PARK PROJECT

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the proposed acquisition of Jersey City waterfront located immediately west of Ellis Island and invites written comments within forty-five (45) days of this notice. Comments should be addressed to the Regional Director, Bureau of Outdoor Recreation, Northeast Region, Federal Office Building, 600 Arch Street, Philadelphia, Pennsylvania 19106.

Lands totaling 335 acres will be acquired in the City of Jersey City, New Jersey. The project would be financed with a Federal grant from the Land and Water Conservation Fund which would be matched with an equal amount of State money. The environmental statement discusses the immediate acquisition of the 335 acres and the long-range proposal of the development of the area, including the construction of the seawall (levee) and the harbor clean-up at Liberty Park by the U.S. Army Corps of Engineers.

Copies are available for inspection at the following locations:

Office of Communications, Office of the Secretary, Department of the Interior, Washington, D.C. 20240.
Office of Communications, Bureau of Outdoor Recreation, Room 242, South Building, Department of the Interior, Washington, D.C. 20240.
Bureau of Outdoor Recreation, Northeast Region, Federal Office Building, 600 Arch Street, Philadelphia, Pennsylvania 19106.
A-95 Clearinghouse, New Jersey Department of Community Affairs, 363 West State Street, Trenton, New Jersey 08618.
Tri-State Regional Planning Commission, 1 World Trade Center, New York, New York 10048.
Planning Department, City of Jersey City, City Hall, Jersey City, New Jersey 07302.
Main Branch, Jersey City Library.
Forrest Irwin Library, Jersey City State College, 2039 Kennedy Building, Jersey City, New Jersey 07305.

Dated: March 14, 1977.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.77-8335 Filed 3-18-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[AA1921-Inq.-6]

IMPRESSION FABRIC OF MAN-MADE FIBER FROM JAPAN

Inquiry and Hearing

The United States International Trade Commission (Commission) received advice from the Department of the Treasury (Treasury) on March 10, 1977, that, during the course of determining whether to institute an investigation with respect to impression fabric of man-made fiber from Japan in accordance with section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)), Treasury had concluded from the information available to it that there is substantial doubt that an industry in the United States is being or is likely to be injured or is prevented from being established, by reason of the importation of this merchandise into the United States. Therefore, the Commission on March 14, 1977, instituted inquiry AA-1921-Inq.-6, under section 201(c)(2) of that act, to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

The Treasury advised the Commission as follows:

DEAR MR. CHAIRMAN: In accordance with section 201(c) of the Antidumping Act of 1921, as amended, an antidumping investigation is being initiated with respect to impression fabric of man-made fiber from Japan. Pursuant to section 201(c)(2) of the Act, you are hereby advised that the information developed during our preliminary investigation has led to the conclusion that there is substantial doubt that an industry in the United States is being, or is likely to be injured, or is prevented from being established, by reason of the importation of this merchandise into the United States.

Information available to Treasury indicates that although imports of impression fabric of man-made fiber from Japan increased both in absolute terms and in terms of market share during the period 1973-75, those imports declined during 1976. The recent decline is believed to be as a result, at least in part, of the current restraint agreement entered into between the Governments of the United States and Japan, which went into effect during 1976. That agreement limits Japanese imports to two of the three tariff items which are the subject of this petition to the equivalent of 5.7 million square yards annually. Inasmuch as the imports from Japan under those two items of the Tariff Schedules of the United States Annotated (TSUSA)—338.3014 and 338.3016—accounted for roughly three-fourths of the total imports of impression fabric of man-made fiber from Japan during 1976, and because imports of impression fabric of man-made fiber from Japan under the third tariff item—347.6020—could become subject to restraint if they exceed a certain minimum, Treasury has concluded there is substantial doubt as to whether or not an industry is being or is likely to be injured.

Furthermore, there is information on record that indicates U.S. producers' shipments increased in both actual and relative terms during 1976.

Moreover, in 1973 the Commission (then the Tariff Commission) in making a determination of no injury with respect to this product from Japan cited the existence of a similar restraint agreement on textile products as one reason for its negative determination.

Pursuant to the applicable provisions of law it is requested that the Commission advise the Department as to whether it determines there is no reasonable indication that an industry in the United States is being or likely to be injured, or is prevented from being established by possible less-than-fair-value imports of impression fabric of man-made fiber from Japan on each of the following three categories: TSUSA items 338.3014, 338.3016 and 347.6020 in the aggregate; TSUSA items 338.3014 and 338.3016 in the aggregate; and TSUSA item 347.6020 individually.

For purposes of this investigation, "impression fabric of man-made fiber" means finished impression fabric, slit or uncut, and not inked.

Based upon data submitted by the petitioner, margins of sales at less than fair value appear to range from 3 to 15 percent on imports of the subject merchandise from Japan.

Some of the enclosed data is regarded by Treasury to be of a confidential nature. It is therefore requested that the United States International Trade Commission consider all the enclosed information to be for the official use of the U.S.I.T.C. only, and not to be disclosed to others without prior clearance from the Treasury Department.

Sincerely yours,

JOHN H. HARPER,
Acting Assistant Secretary (Enforcement, Operations and Tariff Affairs).

Hearing. A public hearing in connection with the inquiry will be held in New York City, New York, at a place to be announced later, beginning at 10 a.m., e.s.t., on Monday, March 28, 1977. All parties will be given an opportunity to be present, to produce evidence, and to be heard at such hearing. Requests to appear at the public hearing should be received in writing in the office of the Secretary to the Commission not later than noon Thursday, March 24, 1977.

Written statements. Interested parties may submit statements in writing in lieu of, and in addition to, appearance at the public hearing. A signed original and nineteen true copies of such statements should be submitted. To be assured of their being given due consideration by the Commission, such statements should be received no later than Wednesday, March 30, 1977.

By order of the Commission.

Issued: March 15, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-8252 Filed 3-18-77;8:45 am]

[TA-201-23]

CERTAIN HEADWEAR

Amendment to Scope of Investigation

Notice is hereby given that the United States International Trade Commission, on March 10, 1977, amended the scope of its investigation No. TA-201-23, Certain Headwear, being conducted under section 201(b) of the Trade Act of 1974, to include, in addition to imported articles not knit, imported articles knit.

The scope of the investigation, as amended, covers headwear, knit or not knit, assembled from two or more cut pieces of fabric, of cotton, flax, or both, or of manmade fibers, provided for in items 702.06, 702.12, 702.14, 703.05, 703.10, and 703.15 of the Tariff Schedules of the United States, and visors with straps, whether or not such straps are adjustable, designed to be worn on the head, knit or not knit, of cotton or of manmade fibers, provided for in items 382.00, 382.04, 382.06, 382.33, 382.78, and 382.81 of the Tariff Schedules of the United States.

Notice of the Commission's institution of the investigation and hearings was published in the FEDERAL REGISTER of February 28, 1977 (42 FR 11288).

By order of the Commission.

Issued: March 16, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-8364 Filed 3-18-77;8:45 am]

LEGAL SERVICES CORPORATION

LEGAL SERVICES OF NORTHEASTERN PENNSYLVANIA

Grants and Contracts

MARCH 15, 1977.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*. Section 1007(f) provides:

*At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor and the State Bar Association of any State where legal assistance will thereby be initiated, of such grant, contract, or project * * *"*

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Services of Northeastern Pennsylvania (formerly Luzerne County Legal Services) to serve Monroe County.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at:

Philadelphia Regional Office, 101 North 33rd Street, Suite 115, Philadelphia, Pennsylvania 19104.

THOMAS EHRLICH,
President.

[FR Doc.77-8352 Filed 3-18-77;8:45 am]

LEGAL SERVICES OF NORTHEAST WISCONSIN AND LEGAL AID SOCIETY OF ST. JOSEPH, INDIANA

Grants and Contracts

MARCH 15, 1977.

The Legal Services Corporation was established pursuant to the Legal Serv-

ices Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*. Section 1007(f) provides:

At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor and the State Bar Association of any State where legal assistance will thereby be initiated, of such grant, contract, or project * * *

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by: (1) Legal Services of Northeast Wisconsin, Green Bay, Wisconsin to serve the counties of Brown, Door and Kewaunee; (2) Legal Aid Society of St. Joseph, South Bend, Indiana to serve the counties of LaPorte, Stark, Marshall, Koscuisko, Elkhart, Pulaski and Fulton.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at:

Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Illinois 60604.

THOMAS EHRLICH,
President.

[FR Doc.77-8353 Filed 3-18-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR THE MINORITY INSTITUTIONS SCIENCE IMPROVEMENT PROGRAM (MISIP)

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for the Minority Institutions Science Improvement Program (MISIP).

Date and time: April 13, 1977—8 p.m. to 10 p.m.; April 14, 1977—9 a.m. to 5 p.m.; April 15, 1977—9 a.m. to 5 p.m.; April 16, 1977—9 a.m. to 12 noon.

Place: Quality Inn, 300 Army Navy Drive, Arlington, Virginia.

Type of meeting: Closed.

Contact person: Dr. Shirley M. McBay, Program Director, MISIP, Room W-450, National Science Foundation, Washington, D.C. 20550, Tel: 202-282-7760.

Purpose of panel: To provide advice and recommendations concerning support for the MISIP Program.

Agenda: To review and evaluate specific science education proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MARCH 15, 1977.

[FR Doc.77-8256 Filed 3-18-77;8:45 am]

FEDERAL ADVISORY COMMITTEES

Review

The National Science Foundation is conducting a comprehensive review of its advisory groups and is soliciting input from all interested persons for this evaluation.

In the letter of February 25, 1977, to the heads of Executive Departments and Establishments, the President expressed his concern about the number and usefulness of Federal advisory committees, and directed that the comprehensive review be conducted on a zero-based concept and be predicated on the principle that all committees should be abolished except those (1) for which there is a compelling need; (2) which have truly balanced membership; and (3) which conduct their business as openly as possible consistent with the law and their mandate. He further stated that each agency should provide for open and public participation in its review process to the maximum extent possible.

All comments should be directed to the Committee Management Office, Division of Personnel and Management, Rm. 248, National Science Foundation, Washington, D.C. 20550, no later than March 31, 1977. These comments will be forwarded to the appropriate officials for consideration in the review process.

In accordance with the President's letter and further instructions from the Office of Management and Budget, the review will be conducted by the Director, NSF, and will encompass the following advisory groups:

Ad Hoc Advisory Panel for the Very Large Array
Advisory Committee for Minority Programs in Science Education
Advisory Committee for Research
Advisory Committee for Research Applications Policy
Advisory Committee for Science Education
Advisory Committee on Ethical and Human Value Implications of Science and Technology
Advisory Panel for Anthropology
Advisory Panel for Astronomy
Advisory Panel for Atmospheric Sciences
Advisory Panel for Chemistry
Advisory Panel for Computer Science and Engineering
Advisory Panel for Developmental Biology
Advisory Panel for Earth Sciences
Advisory Panel for Ecological Sciences
Advisory Panel for Economics
Advisory Panel for Electrical Sciences and Analysis
Advisory Panel for Engineering Chemistry and Energetics
Advisory Panel for Engineering Mechanics
Advisory Panel for Genetic Biology
Advisory Panel for History and Philosophy of Science
Advisory Panel for Human Cell Biology
Advisory Panel for Law and Social Sciences
Advisory Panel for Linguistics
Advisory Panel for Mathematical Sciences
Advisory Panel for Memory and Cognitive Processes
Advisory Panel for Metabolic Biology
Advisory Panel for Metallurgy and Materials
Advisory Panel for Molecular Biology
Advisory Panel for Neurobiology
Advisory Panel for Oceanography Project Support
Advisory Panel for Physics
Advisory Panel for Political Science
Advisory Panel for Psychobiology
Advisory Panel for Regulatory Biology
Advisory Panel for Science Education Projects
Advisory Panel for Sensory Physiology and Perception
Advisory Panel for Social and Developmental Psychology
Advisory Panel for Sociology
Advisory Panel for Systematic Biology
Advisory Panel for the Division of Policy Research and Analysis
Advisory Panel for Weather Modification
Advisory Panel on Public Understanding of Science
Advisory Panel on the Materials Research Laboratories
Alan T. Waterman Award Committee
International Decade of Ocean Exploration Proposal Review Panel
National Magnet Laboratory Visiting Committee
National Science Foundation Advisory Council
President's Committee on the National Medal of Science
Science Applications Task Force
Science for Citizens Advisory Committee
Science Information Activities Task Force
Special Advisory Committee on the Sacramento Peak Observatory
Utility Advisory Panel

FRED K. MURAKAMI,
Committee Management Officer.

MARCH 14, 1977.

[FR Doc.77-8253 Filed 3-18-77;8:45 am]

NATIONAL SCIENCE BOARD REGIONAL FORUMS

The National Science Board is planning a series of regional forums in response to language in the NSF Authorization Act of Fiscal Year 1976 which directed the Foundation

* * * To prepare a comprehensive plan to facilitate the participation of members of the public in the formulation, development, and conduct of the National Science Foundation's programs, policies, and priorities.

The primary objective of the forums is to encourage the expression of views by the general public on scientific and science education issues. Several Members of the National Science Board will participate in each forum; participation is invited from business, state and local government, educational institutions, public interest and citizen groups, and the community at large. Ideas exchanged at the forum will help the Board expand its information base and assist in its policy-making role for the National Science Foundation.

The NSB will hold the third of its regional forums in Dallas, Texas, on April 12, 1977. Five issue areas were identified for discussion by a regionally based planning group. These areas were water,

growth, food and fiber, resource management, and humanizing tomorrow. Questions under each topic provide an indication of the emphasis for the forthcoming discussions.

(1) *Growth.* What will be the impacts upon society of changes in the age distribution of our population? How can population shifts be anticipated and negative impacts reduced? What are the relationships between population shifts and investments in education, transportation, and housing? Between R & D investment and economic growth in the private sector? What would be the effects on urban growth or decentralization of faster, cheaper, and more effective methods of communication?

(2) *Resource Management.* What are the long-term technological options for meeting resource demands? What demands can be met from domestic rather than foreign supplies? By substitution? At what costs? How much of our resource needs could be met by recycling and by conservation?

What should be the roles of state and local governments, business, industry, and the individual in resource management?

(3) *Food and Fiber.* How vulnerable is American agriculture to variations in environmental conditions and resources? What is the potential of advances in plant biology and pest management for improving the productivity of agriculture? What ways are available to reduce food waste and spoilage through better methods of harvesting, transportation, storage, and distribution? How can currently underutilized food production resources be made more productive?

(4) *Water.* How can we best manage wastewater to eliminate the damaging effects on regional environmental quality? What methods could be employed to reduce the energy costs of transporting water for urban and agricultural uses? How can agriculture improve the efficiency of its water use? What are the environmental risks of massive water impoundments and diversions? How will energy needs affect water conservation efforts? Can water resources be predictably and safely manipulated by weather modifications?

(5) *Humanizing Tomorrow.* In an increasingly fast-paced world, how can we measure changes in quality of life and relate them to science and technology? Can improved communications technologies and systems improve the availability of government services to people with limited mobility? What impact might these systems have on lifestyle? On resource utilization? What kind of education systems and programs will be needed to prepare people for life in the year 2000? Will human health withstand the growing stresses of technology?

In addition to the issues selected above, the National Science Board is asking that participants consider three areas of concern to the Board and provide some suggestions to the Board on these issues. The three issues are:

(1) *Women, Minorities, and Handicapped in Science.* The National Science Board hopes to increase the participation of women, minorities, and the handicapped in careers in science. These groups have been traditionally underrepresented in the sciences and in receipt of doctoral degrees in the sciences. Programs have been initiated in order to improve the opportunities for these groups. Are other types or forms of programs needed?

(2) *Younger Researchers: Supply and Demand.* Fewer and fewer faculty positions in the sciences are becoming available today. As a result, the supply of young Ph.D.'s is outstripping the demand for them in academic science. If the supply is curtailed, do we lose a generation of scientific researchers? Are other sources of employment available and appropriate?

(3) *Alternative Producers of Basic Research.* The National Science Foundation's primary mission is the support of basic research in the sciences. The Nation's primary producer of basic research is the university. Almost all of NSF's funds for basic research go to colleges and universities. What should the role of industry or other possible producers be in federally-funded basic research?

The Third NSB Forum will take place at the Dallas Hilton Hotel (1914 Commerce Street) Dallas, Texas. The Forum will begin at 9 a.m. and adjourn at 4:45 p.m. on April 12. Further information may be obtained from the Community Affairs Branch, Room 527, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Interested citizens who cannot attend the Forum are invited to send written comments on science policy issues to the above NSF address by May 1, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MARCH 15, 1977.

[FR Doc.77-8255 Filed 3-18-77;8:45 am]

SCIENCE AND TECHNOLOGY COMMITTEE FOR THE SCIENCE INFORMATION TASK FORCE

Meeting

In accordance with the Federal Advisory Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Science and Technology Committee for the Science Information Activities Task Force.
Date: April 7, 1977.
Time: 9 a.m. to 4 p.m.
Type of Meeting: Open.
Place: Board Room, Varian Associates, 611 Hansen Way, Palo Alto, California 94303.
Contact: Dr. H. E. Bamford, Staff Liaison Officer, Room 1201, National Science Foundation, Washington, D.C. 20550, Telephone: (202) 632-5800. Persons planning to attend should notify Dr. Bamford prior to the meeting.
Summary Minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of the Task Force: To provide advice and recommendations concerning the appropriate roles and responsibilities of the National Science Foundation regarding the communication and use of scientific and technical information. This committee, one of four established by the Task Force, will explore fields of science and technology pertinent to the Task Force's charge.
AGENDA:
9:00 a.m.: Welcome and introductory remarks by Chairman.
9:10 a.m.: Presentations on technologies applicable to scientific and technical communication.
Noon: Recess.
1:00 p.m.: Presentations on technologies applicable to scientific and technical communication.
3:00 p.m.: Open public participation.
4:00 p.m.: Adjourn.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MARCH 15, 1977.

[FR Doc.77-8254 Filed 3-18-77;8:45 am]

ADVISORY COMMITTTEE ON RESEARCH APPLICATIONS POLICY

Open Meeting

In accordance with the Federal Advisory Committee Act. Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee on Research Applications Policy.
Date: April 18 and 19, 1976.
Place: 1800 G Street NW., Washington, D.C., Room 1144.
Type of meeting: Open.
Contact person: Ms. Darleen F. Morano, Executive Secretary, Advisory Committee on Research Applications Policy, Room 1243, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-5820.
Summary minutes: Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of advisory meeting: To provide recommendations concerning the plans, status and results of the NSF Research Applications Directorate.
Agenda: Will include:

APRIL 18

9:00—Introduction of New Members and Remarks
9:30—Update on the Research Applied to National Needs (RANN) program
12:00—Lunch
1:00—Discussion of the Research Applied to National news (RANN) program.
5:00—Adjourn

APRIL 19

9:00—Recommendations on the Research Applied to National Needs (RANN) program
12:00—Adjourn

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77-8381 Filed 3-18-77;8:45 am]

ADVISORY PANEL FOR ENGINEERING CHEMISTRY AND ENERGETICS

Meeting

In the January 27, 1977, FEDERAL REGISTER, the National Science Foundation announced a partially opened meeting of the Advisory Panel for Engineering Chemistry and Energetics to be held on February 14 and 15, 1977.

Due to a family emergency, one panelist was unable to attend any portion of the meeting. Although the effect on the main panel was relatively minor, it did pre-empt the in-depth study of the Heat Transfer Program.

Therefore, the rescheduling of the Heat Transfer Subpanel closed session is as follows:

Friday, March 25, 1977—9 a.m.–5 p.m., Room 414.
Saturday, March 26, 1977—9 a.m.–5 p.m., Room 414.

The subpanel will be reviewing the Heat Transfer Program including proposal jackets and peer review.

The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personnel information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), Government in the Sunshine Act.

The Committee Management Officer made the determination to close this session pursuant to provision of Section 10(d) of PL 92–463 and was delegated the authority to make such a determination by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MARCH 16, 1977.

[FR 77-8380 Filed 3-18-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-321]

GEORGIA POWER CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 40 to Facility Operating License No. DPR–57 issued to Georgia Power Company, Oglethorpe Electric Membership Corporation, Municipal Electric Association of Georgia and City of Dalton, Georgia, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1, located in Appling County, Georgia. The amendment is effective as of its date of issuance.

The amendment consists of changes to the Technical Specifications which will allow an increase in the flow rate through the standby gas treatment system during the demonstration of secondary containment integrity.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 7, 1977, (2) Amendment No. 40 to License No. DPR–57 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Applying County Public Library, Parker Street, Baxley, Georgia 31513.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 11th day of March, 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-8024 Filed 3-18-77;8:45 am]

[Docket No. 40-8584]

MINERALS EXPLORATION CO. SWEETWATER URANIUM PROJECT

Availability of Applicant's Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, Minerals Exploration Company has filed an environmental report in support of its application for a source material license for a proposed uranium mill (Sweetwater Uranium Project) located in the Great Divide Basin, Sweetwater County, Wyoming. The report, which discusses environmental considerations related to the construction and operation of the mill, is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555. Copies of the report are also being made available at the State Clearinghouse, State Planning Coordinator, Office of the Governor, Capitol Building, Cheyenne, Wyoming 82001.

After the environmental report has been analyzed by the staff, a draft environmental statement will be prepared. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Silver Spring, Maryland, this 11th day of March, 1977.

For the Nuclear Regulatory Commission.

L. C. ROUSE,
Chief, Fuel Processing and Fabrication Branch, Division of Fuel Cycle and Material Safety.

[FR Doc.77-8025 Filed 3-18-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued two guides in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.84, Revision 9, "Code Case Acceptability—ASME Section III Design and Fabrication," and Regulatory Guide 1.85, Revision 9, "Code Case Acceptability—ASME Section III Materials," list those code cases that are generally acceptable to the NRC staff for implementation in the licensing of light-water-cooled nuclear power plants. These two guides were revised to update the listings of acceptable code cases.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C.

20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland this 10th day of March 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director,
Office of Standards Development.

[FR Doc.77-8026 Filed 3-18-77;8:45 am]

[Docket No. 50-278]

PHILADELPHIA ELECTRIC CO. (PEACH BOTTOM ATOMIC POWER STATION UNIT NO. 3)

Exemption

I

The Philadelphia Electric Company (the licensee), is the holder of Facility Operating License No. DPR-56 which authorizes the operation of the nuclear power reactor known as Peach Bottom Atomic Power Station Unit No. 3 (the facility) at steady state reactor power levels not in excess of 3253 megawatts thermal (rated power). The facility consists of a boiling water reactor (BWR) located at the licensee's site in Peach Bottom, York County, Pennsylvania.

II

In accordance with the requirements of the Commission's ECCS Acceptance Criteria 10 CFR 50.46, the licensee has submitted on November 17, 1976, an ECCS evaluation for proposed operation with a reload containing certain new fuel elements. This evaluation included limits on Average Planar Linear Heat Generation Rates in proposed Technical Specification Figures 3.5-1C and 3.5-1D. The ECCS performance evaluation submitted by the licensee was based upon an ECCS evaluation model developed by General Electric Company (General Electric), the designer of the facility. The General Electric ECCS Evaluation model had been previously found to conform to the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR Part 50 § 50.46 and Appendix K. The evaluation indicated that with the average planar linear heat generation rate limited as set forth in the evalution, and with other limits set forth in the facility's technical specifications, the ECCS cooling performance for the facility would conform with the criteria contained in 10 CFR § 50.46(b) which govern calculated peak clad temperature, maximum cladding oxidation, maximum hydrogen generation, coolable geometry and long-term cooling.

Recently, the NRC staff was informed by General Electric that several errors had been discovered in the computer codes used to calculate peak clad temperature and the clad oxidation percentage in the General Electric ECCS evaluation mode. These errors have been discovered by General Electric during a continuing internal Quality Assurance (QA) audit of their LOCA evaluation model codes. The additional effort expended by the vendor to enhance the assurance of the quality of its evaluation model, the staff believes, was prudent and desirable. This audit is still under way and the errors reported reflect those found to date. Identification of additional errors of a minor nature may still be uncovered during the ongoing QA checks.

While some of these errors discussed herein have either no signficant effect or a conservative effect on the evaluation results, one or more of the errors included in the Peach Bottom Unit No. 3 ECCS evaluation leads to nonconservative values. Based on a preliminary assessment, including information and supportive calculations by General Electric, the NRC staff has determined that the combined effect of the following code errors, when corrected, could produce ECCS evaluation results which would require a reduction in operating limits for Peach Bottom Unit No. 3.

(1) PRESSURE RULE

The LAMB code is used to calculate system pressure during the LOCA. This calculated pressure is then used as an input to the REFLOOD code which calculates the water level vs time relationship in the core. General Electric used an approximation of the pressure response of the LAMB code that was thought, at the time of approval, to be an acceptable representation of the physical phenomena involved. Later application of this approximation to certain cases showed it to be non-conservative. General Electric proposes to correct this nonconservatism by utilizing a conservative approximation to the pressure rule for input into REFLOOD. This correction reduces reflood time by 0 to 50 seconds and increases MAPLHGR by 0-5%.

(2) BUNDLE VAPORIZATION

General Electric has used incorrect coefficients in the calculation of the amount of vaporization occurring during core spray. The vapor formation in the bundle is a prime determinant of the amount of spray water that can get through the upper tie plate and reflood the core. The vapor formation was under-calculated by approximately 4% resulting in a 20-second increase in reflooding time and about a 2% decrease in the MAPLHGR.

(3) DISCHARGE BREAK MODELING

General Electric proposes to take credit for an approved model for suction line friction (from the vessel nozzle to the discharge side of the recirculation pump) that improves reflooding time for the discharge break by approximately 15 seconds. This increases the MAPLHGR for discharge break limited plants by about 1.5%.

(4) STRUCTURAL ABSORPTION OF GAMMA HEAT

General Electric has erroneously taken double credit for power generation in non-fuel structural material. This error does not apply to Peach Bottom Unit No. 3.

(5) INCREASED COUNTER CURRENT FLOW LIMITING (CCFL) DIFFERENTIAL PRESSURE

Some experimental evidence exists that the differential pressure in a fuel assembly during periods of CCFL may be higher than previously assumed. This could cause a delay in reflood time. Correction of this error reduces the Peach Bottom Unit No. 3 MAPLHGR by 1%.

(6) OTHERS

Several small changes of inputs to the evaluation codes were identified as being necessary to correct errors. They included: (a) The use of actual plant specific break areas for the LOCA; (b) A reduced core plate weight; (c) An increase in the peripheral bypass area used in the counter current flooding calculations; (d) The correction of a decimal point error in the assumed guide tube thickness; and (e) Credit is no longer assumed for recirculation loop discharge valve closure during blowdown.

Due to the above errors in the ECCS analysis currently approved by NRC for Peach Bottom Unit No 3, the staff requested the licensee to submit an estimate of the impact of these errors on the peak clad temperature that would result from the worst break, if the errors were corrected. The revised ECCS calculations indicated that the MAPLHGR should be reduced by approximately 6% to accommodate the cumulative effect of these errors. On the other hand, the NRC staff is currently reviewing General Electric's most recent ECCS model revisions some of which have effects offsetting such a reduction. These revisions included:

(1) CHASTE 04 COMPUTER CODE CHANGE

The CHASTE code has been modified to incorporate an improved conduction solution for the calculation of fuel rod temperatures and more detailed evaluation of view factors for calculation of rod to rod radiation of heat.

(2) REFLOOD 05 COMPUTER CODE REVISION

The FEFLOOD code was modified to correct a logic error in the evaluation of the flow split between the core and the jet pumps. This logic error only occurred for certain plant calculations and determined the fraction of steam used to evaluate the counter current flow limiting phenomenon which limits the penetration of spray cooling water into the lower plenum and therefore increase the reflood time for the core.

(3) PARTIALLY DRILLED CORE CREDIT

The partial drilling correction gives credit for additional flow paths provided by drilling holes in the bottom nozzle of the fuel assemblies. This additional flow

area enhances the refill of the lower plenum by spray cooling water following the postulated Loss-of-Coolant Accident and results in a faster core reflood which reduces peak clad temperatures.

Although the entire group of model changes is still under review, the staff has completed its review of the CHASTE and REFLOOD changes and has concluded that they may be used in GE's ECCS performance evaluation model. While revised computer runs incorporating these changes in the model as a whole have not yet been run for a spectrum of breaks for all plants, the parametric studies performed by GE for the effect of these changes demonstrates that they will in turn, when added to the decreases caused by the error corrections, result in no change in the existing MAPLHGR for 7×7 fuel assemblies up to 10,500 MWD/ton, and 2% increase for 7×7 fuel assemblies at fuel burnups greater than 10,500 MWD/ton, and no change for 8×8 fuel assemblies at all burnups.

These parametric studies and calculational runs for typical boiling reactor models demonstrate that the operation with the Peach Bottom facility MAPLHGR, as set forth in the licensee's application dated November 17, 1976, will conservatively assure that calculated peak clad temperatures in the event of postulated cooling accidents would not exceed 2200° F and that the other criteria of 10 CFR 50.46(b) will be satisfied. Operation of the facility would nevertheless be technically in nonconformance with the requirements of § 50.46, in that specific computer runs for the particular facility employing the revised model as a complete entity will not be complete for some time. However, operation as proposed in the licensee's application dated November 17, 1976, will assure that the ECCS system will conform to the performance criteria of § 50.46. Accordingly, while the actual computer runs for the specific facility are carried out to achieve full compliance with 10 CFR § 50.46, operation of the facility will not endanger life or property or the common defense and security.

In the absence of any safety problem associated with operation of the facility during the period until the computer computations are completed, there appears to be no public interest consideration favoring restriction of the operation of the captioned facility. Accordingly, the Commission has determined that an exemption in accordance with 10 CFR 50.12 is appropriate. The specific exemption is limited to the period of time necessary to complete computer calculations.

The operating limitations set forth in the licensee's submittal in accordance with 10 CFR 50.46(a)(iv) are no longer effective. Since that submittal on July 9, 1975, a new core has been proposed for operation having different fuel thermal and hydraulic characteristics, which have necessitated a revised ECCS performance evaluation, and revised ECCS based operating limitations discussed above. Consequently, the procedural requirements of 10 CFR 50.46(a)(vi) are not applicable to such exemption authorization.

III

Copies of the following documents are available for inspection at the Commission's Public Document Room at 1717 H Street, Washington, D.C. 20555 and are being placed in the Commission's local public document room at the Martin Memorial Library, 159 E. Market Street, York, Pennsylvania 17401:

(1) Letters from General Electric to NRC dated February 14, 1977, and January 26, 1977;

(2) Letters from Philadelphia Electric Company to Mr. George Lear, Operating Reactors Branch No. 3, dated January 28, 1977, and February 18, 1977;

(3) Letters dated July 9, 1975, from Philadelphia Electric Company to NRC and supplements thereto dated September 10, 1975, October 1, 24 and 30, 1975, November 18 and 20, 1975, and December 29, 1975; and

(4) This Exemption in the matter of Philadelphia Electric Company (Peach Bottom Atomic Power Station Unit No. 3).

Wherefore, in accordance with the Commission's regulations as set forth in 10 CFR Part 50, the licensee is hereby granted an exemption from the requirements of 10 CFR 50.46(a)(i) that ECCS performance be calculated in accordance with an acceptable calculational model which conforms to the provisions in Appendix K, without the errors discussed herein. This exemption is conditioned as follows:

(1) As soon as possible, the licensee shall submit a re-evaluation of ECCS cooling performance calculated in accordance with General Electric Company's Evaluation Model approved by the NRC staff and corrected for the errors described herein and any other corrections in the model of which the licensee is aware at the time the calculations are performed.

Dated in Bethesda, Maryland this 11th day of March 1977.

For the Nuclear Regulatory Commission.

BEN C. RUSCHE,
Director, Office of Nuclear Reactor Regulation.

[FR Doc.77-8285 Filed 3-18-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.101, Revision 1, "Emergency Planning for Nuclear Power Plants," describes a method acceptable to the NRC staff for complying with the Commission's regulations with regard to the content of emergency plans for nuclear power plants, primarily in the Final Safety Analysis Report stage. This guide was revised as the result of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland this 14th day of March 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.77-8286 Filed 3-18-77;8:45 am]

ABNORMAL OCCURRENCE REPORT

Sixth Report Submitted to the Congress

Notice is hereby given that pursuant to the requirements of Section 208 of the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission has published and issued the sixth periodic report to Congress on abnormal occurrances (NUREG 0090-5). The release date is March 14, 1977.

Under the Energy Reorganization Act of 1974, which created the NRC, an abnormal occurrence is defined as "an unscheduled incident or event which the Commission (NRC) determines is significant from the standpoint of public health or safety." The NRC has made a determination, based on interim criteria, that events involving an actual loss or significant reduction in the degree of protection against radioactive properties of source, special nuclear, and byproduct materials are abnormal occurrences.

The sixth report to Congress is for the third quarter of 1976 and indicates that during this period:

(a) There were three abnormal occurrences at the 62 nuclear power plants licensed to operate. One involved the loss of AC power to safety-related equipment. The second involved a nuclear core power distribution anomaly. The third is a generic event pertaining to steam generator tube integrity. The incidents had no actual impact on public health or safety.

(b) There was one abnormal occurrence at fuel cycle facilities (other than nuclear power plants). The event involved an accumulated nuclear material inventory anomaly.

(c) There were two abnormal occurrences at other licensee facilities. Both occurrences involved incidents of occupational whole body exposures to radiography personnel.

The incidents involved temporary reductions in margins of safety normally provided.

The sixth report to the Congress also contains updating information on an abnormal occurrence reported in a previous report.

Interested persons may review the report at the NRC's Public Document Room, 1717 H Street NW., Washington, D.C., or at any of the 130 local Public Document Rooms throughout the country. The report, designated NUREG 0090–5, may be purchased from the National Technical Information Service, Springfield, Virginia 22161, at $3.50 a copy on or about March 29, 1977.

Dated at Washington, D.C., this 15th day of March, 1977.

NUCLEAR REGULATORY COMMISSION,
SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77–8274 Filed 3–18–77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEES ON REGULATORY ACTIVITIES AND ELECTRICAL SYSTEMS CONTROL AND INSTRUMENTATION

Meeting

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards Subcommittees on Regulatory Activities and Electrical Systems Control and Instumentation will hold a joint meeting on April 6, 1977 in Room 1046, 1717 H Street, NW., Washington, D.C. 20555.

The agenda for the above meeting will be as follows:

WEDNESDAY, APRIL 6, 1977

8:44 A.M. UNTIL 12 NOON. (OPEN)

The Subcommittee on Regulatory Activities will hear presentations from the NRC Staff and will hold discussions with this group pertinent to the following items:

(1) Regulatory Guide 1.39, Revision 1, "Housekeeping Requirements for Nuclear Power Plants."

(2) Regulatory Guide 1.90, "Inservice Inspection of Prestressed Concrete Containment Structures with Grouted Tendons."

(3) Regulatory Guide 1.98, Revision 1, "Assumptions Used for Evaluating the Potential Radiological Consequences of a Radioactive Offgas System Failure in a Boiling Water Reactor."

(4) Regulatory Guide 1.100, Revision 1, "Seismic Qualification of Electrical Equipment for Nuclear Power Plants."

(5) Regulatory Guide 1.123, Revision 1, "Quality Assurance Requirements for Control of Procurement of Items and Services for Nuclear Power Plants."

1 P.M. UNTIL THE CLOSE OF BUSINESS. (OPEN)

The Subcommittees on Regulatory Activities and Electrical Systems, Control and Instrumentation will hear presentations from the NRC Staff and will hold discussions with this group pertinent to Regulatory Guide 1.108, Revision 1, "Periodic Testing of Diesel Generator Units Used as Onsite Electric Power Systems at Nuclear Power Plants," Draft 1, dated February 1, 1977.

Portions of this meeting may be closed if required to discuss proprietary material related to the design, construction, or operation of specific equipment.

I have determined, in accordance with subsection 10(d) of Pub. L. 92–463, that it may be necessary to close portions of the meeting as noted above to protect proprietary data under 5 U.S.C. 552(b)(c)(4).

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(A) Persons wishing to submit written statements regarding Regulatory Guides 1.39, 1.90, 1.98, 1.100, 1.123, and 1.108 may do so by providing a readily reproducible copy to the Subcommittees at the beginning of the meeting. Such comments shall be based upon documents on file and available for public inspection at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than March 30, 1977 to Mr. G. R. Quittschreiber, ACRS, NRC, Washington, D.C. 20555 will normally be received in time to be considered at this meeting.

(B) Those persons wishing to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittees will receive oral statements on topics relevant to the Committee's purview at an appropriate time chosen by the Chairman.

(C) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634–1374, Attn: Mr. G. R. Quittschreiber) between 8:15 a.m. and 5 p.m., e.s.t.

(D) Questions may be propounded only by members of the Subcommittees and their consultants.

(E) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(F) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. G. R. Quittschreiber, of the ACRS Office, prior to the beginning of the meeting.

(G) A copy of the transcript of the open portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555 on or after April 13, 1977, and July 6, 1977, respectively.

Copies may be obtained upon payment of appropriate charges.

Dated: March 15, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77–8355 Filed 3–18–77;8:45 am]

[Docket No. 50–321]

GEORGIA POWER CO., ET AL.

Exemption

In the matter of Georgia Power Company, Oglethorpe Electric Membership Corporation; Municipal Electric Association of Georgia; City of Dalton, Georgia. Edwin I. Hatch Nuclear Plant Unit No. 1.

I

The Georgia Power Company, Oglethorpe Electric Membership Corporation, Municipal Electric Association of Geor-

gia, City of Dalton, Georgia (the licensees), are the holders of Facility Operating License No. DPR-57 which authorizes the operation of the nuclear power reactor known as Edwin I. Hatch Nuclear Plant Unit No. 1 (the facility) at steady state reactor power levels not in excess of 2436 megawatts thermal (rated power). The facility consists of a boiling water reactor (BWR) located at the licensees site 11 miles north of Baxley, Georgia.

II

In accordance with the requirements of the Commission's ECCS Acceptance Criteria 10 CFR 50.46, the licensees have submitted on February 8 and February 22, 1977, an ECCS evaluation for proposed operation with a reload containing certain new fuel elements. This evaluation included limits on Average Planar Linear Heat Generation Rates in proposed Technical Specification Figure 3.11-1. The ECCS performance evaluation submitted by the licensees was based upon an ECCS evaluation model developed by General Electric Company (General Electric), the designer of the facility. The General Electric ECCS Evaluation model had been previously found to conform to the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR Part 50 50.46 and Appendix K. The evaluation indicated that with the average planar linear heat generation rate limited as set forth in the evaluation, and with other limits set forth in the facility's technical specifications, the ECCS cooling performance for the facility would conform with the criteria contained in 10 CFR § 50.46(b) which govern calculated peak clad temperature, maximum cladding oxidation, maximum hydrogen generation, coolable geometry and long-term cooling.

Recently, the NRC staff was informed by General Electric that several errors had been discovered in the computer codes used to calculate peak clad temperature and the clad oxidation percentage in the General Electric ECCS evaluation mode. These errors have been discovered by General Electric during a continuing internal Quality Assurance (QA) audit of their LOCA evaluation model codes. The additional effort expended by the vendor to enhance the assurance of the quality of its evaluation model, the staff believes, was prudent and desirable. This audit is still under way and the errors reported reflect those found to date. Identification of additional errors of a minor nature may still be uncovered during the ongoing QA checks.

While some of these errors discussed herein have either no significant effect or a conservative effect on the evaluation results, one or more of the errors included in the Hatch Unit No. 1 ECCS evaluation leads to nonconservative values. Based on a preliminary assessment, including information and supportive calculations by General Electric, the NRC staff has determined that the combined effect of the following code errors, when corrected, could produce ECCS evaluation results which would require a reduction in operating limits for Hatch Unit No. 1.

(1) *Pressure Rule.* The LAMB code is used to calculate system pressure during the LOCA. This calculated pressure is then used as an input to the REFLOOD code which calculates the water level vs time relationship in the core. General Electric used an approximation of the pressure response of the LAMB code that was thought, at the time of approval, to be an acceptable representation of the physical phenomena involved. Later application of this approximation to certain cases showed it to be nonconservative. General Electric proposes to correct this nonconservatism by utilizing a conservative approximation to the pressure rule for input into REFLOOD. This correction increases reflood time by 0 to 50 seconds and decreases MAPLHGR by 0 to 5%.

(2) *Bundle vaporization.* General Electric has used incorrect coefficients in the calculation of the amount of vaporization occurring during core spray. The vapor formation in the bundle is a prime determinant of the amount of spray water that can get through the upper tie plate and reflood the core. The vapor formation was under-calculated by approximately 4% resulting in a 20-second increase in reflooding time and about a 2% decrease in the MAPLHGR.

(3) *Discharge break modeling.* General Electric proposes to take credit for an approved model for suction line friction (from the vessel nozzle to the discharge side of the recirculation pump) that improves reflooding time for the discharge break by approximately 15 seconds. This increases the MAPLHGR for discharge break limited plants by about 1.5%.

(4) *Structural absorption of gamma heat.* General Electric has erroneously taken double credit for power generation in non-fuel structural material. This error does not apply to Hatch Unit No. 1.

(5) *Increased counter current flow limiting (CCFL) differential pressure.* Some experimental evidence exists that the differential pressure in a fuel assembly during periods of CCFL may be higher than previously assumed. This could cause a delay in reflood time. Correction of this error reduces the Hatch Unit No. 1 MAPLHGR by 1%.

(6) *Others.* Several small changes of inputs to the evaluation codes were identified as being necessary to correct errors. They included:

(a) The use of actual plant specific break areas for the LOCA;

(b) A reduced core plate weight;

(c) An increase in the peripheral bypass area used in the counter current flooding calculations;

(d) The correction of a decimal point error in the assumed guide tube thickness; and

(e) Credit is no longer assumed for recirculation loop discharge valve closure during blowdown.

Due to the above errors in the ECCS analysis currently approved by NRC for Hatch Unit No. 1, the staff requested the licensees to submit an estimate of the impact of these errors on the peak clad temperature that would result from the worst break, if the errors were corrected. The revised ECCS calculations indicated that the MAPLHGR should be reduced by approximately 3% to accommodate the cumulative effect of these errors. On the other hand, the NRC staff is currently reviewing General Electric's most recent ECCS model revisions some of which have effects offsetting such a reduction. These revisions included:

(1) *CHASTE 01 computer code change.* The CHASTE code has been modified to incorporate an improved conduction solution for the calculation of fuel rod temperatures and more detailed evaluation of view factors for calculation of rod to rod radiation of heat.

(2) *Reflood 05 computer code revision.* The REFLOOD code was modified to correct a logic error in the evaluation of the flow split between the core and the jet pumps. This logic error only occurred for certain plant calculations and determined the fraction of steam used to evaluate the counter current flow limiting phenomenon which limits the penetration of spray cooling water into the lower plenum and therefore increase the reflood time for the core.

(3) *Partially drilled core credit.* The partial drilling correction gives credit for additional flow paths provided by drilling holes in the bottom nozzle of the fuel assemblies. This additional flow area enhances the refill of the lower plenum by spray cooling water following the postulated Loss-of-Coolant Accident and results in a faster core reflood which reduces peak clad temperatures.

Although the entire group of model changes is still under review, the staff has completed its review of the CHASTE and REFLOOD changes and has concluded that they may be used in GE's ECCS performance evaluation model. While revised computer runs incorporating these changes in the model as a whole have not yet been run for a spectrum of breaks for all plants, the parametric studies performed by GE for the effect of these changes demonstrates that they will in turn, when added to the decreases caused by the error corrections, result in a 2% decrease in the existing MAPLHGR for 7 x 7 fuel assemblies up to 15,500 MWD/ton.

These parametric studies and calculational runs for typical boiling reactor models demonstrate that the operation with the Hatch Unit No. 1 facility MAPLHGR, as set forth in the licensee's application dated February 8 and 22, 1977, will conservatively assure that calculated peak clad temperatures in the event of postulated cooling accidents would not exceed 2,200° F. and that the other criteria of 10 CFR 50.46(b) will be satisfied. Operation of the facility would nevertheless be technically in nonconformance with the requirements of § 50.46, in that specific computer runs for the particular facility employing the revised model as a complete entity will not be complete for some time. However, operation as proposed in the licensees applications dated February 8 and 22, 1977, will assure that the ECCS system

will conform to the performance criteria of § 50.46. Accordingly, while the actual computer runs for the specific facility are carried out to achieve full compliance with 10 CFR § 50.46, operation of the facility will not endanger life or property or the common defense and security.

In the absence of any safety problem associated with operation of the facility during the period until the computer computations are completed, there appears to be no public interest consideration favoring restriction of the operation of the captioned facility. Accordingly, the Commission has determined that an exemption in accordance with 10 CFR § 50.12 is appropriate. The specific exemption is limited to the period of time necessary to complete computer calculations.

The operating limitations set forth in the licensee's submittal in accordance with 10 CFR § 50.46(a)(iv) are no longer effective. Since that submittal on July 9, 1975, a new core has been proposed for operation having different fuel thermal and hydraulic characteristics, which have necessitated a revised ECCS performance evaluation, and revised ECCS based operating limitations discussed above. Consequently, the procedural requirements of 10 CFR § 50.46(a)(vi) are not applicable to such exemption authorization.

III

Copies of the following documents are available for inspection at the Commission's Public Document Room at 1717 H Street, Washington, D.C. 20555 and are being placed in the Commission's local public document room at the Appling County Public Library, Parker Street, Baxley, Georgia 31513.

(1) Letters from General Electric to NRC dated February 14, 1977, and January 26, 1977;

(2) Letters from Georgia Power Company to Mr. George Lear, Operating Reactors Branch #3, dated January 19, 1977, and February 18, 1977;

(3) Letters dated July 9, 1975, April 9, 1976, February 8, 1977 and February 22, 1977, from Georgia Power Company to NRC and supplements thereto dated August 6 and 29, 1975, September 24, 1975, October 14, 21, and 24, 1975 and December 2 and 8, 1975; and

(4) This Exemption in the matter of Georgia Power Company, Oglethorpe Electric Membership Corporation, Municipal Electric Association of Georgia, City of Dalton, Georgia (Edwin I. Hatch Nuclear Plant Unit No. 1).

Wherefore, in accordance with the Commission's regulations as set forth in 10 CFR Part 50, the licensees are hereby granted an exemption from the requirements of 10 CFR 50.46(a)(1) that ECCS performance be calculated in accordance with an acceptable calculational model which conforms to the provisions in Appendix K, without the errors discussed herein. This exemption is conditioned as follows:

(1) As soon as possible, the licensees shall submit a reevaluation of ECCS cooling performance calculated in accordance with General Electric Company's Evaluation Model approved by the NRC staff and corrected for the errors described herein and any other corrections in the model of which the licensees are aware at the time the calculations are performed.

(2) If the core is to be reloaded prior to completion of the calculations required by paragraph (1); the licensees shall reduce the MAPLHGR for the reloaded core by 2% for 7 x 7 fuel at burnups greater than 15,000 megawatt days per ton until further authorization by the Commission.

For the Nuclear Regulatory Commission.

Dated in Bethesda, Maryland this 11th day of March, 1977.

BEN C. RUSCHE,
Director, Office of Nuclear Reactor Regulation.

[FR Doc.77-8275 Filed 3-18-77;8:45 am]

[Docket No. 50-331]

IOWA ELECTRIC LIGHT AND POWER CO., DUANE ARNOLD ENERGY CENTER

Exemption

I

The Iowa Electric Light and Power Company (the licensee), is the holder of Facility Operating License No. DPR-49 which authorizes the operation of the nuclear power reactor known as Duane Arnold Energy Center (the facility) at steady state reactor power levels not in excess of 1593 megawatts thermal (rated power). The facility consists of a boiling water reactor (BWR) located at the licensee's site near Palo, Linn County, Iowa.

II

In accordance with the requirements of the Commission's ECCS Acceptance criteria 10 CFR 50.46, the licensee has submitted on January 31, 1977, an ECCS evaluation for proposed operation with a reload containing certain new fuel elements. This evaluation included limits on Average Planar Linear Heat Generation Rates in proposed Technical Specification Figures 3.5-1C and 3.5-1D. The ECCS performance evaluation submitted by the licensee was based upon an ECCS evaluation model developed by General Electric Company (General Electric), the designer of the facility. The General Electric ECCS Evaluation model had been previously found to conform to the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR Part 50 50.46 and Appendix K. The evaluation indicated that with the average planar linear heat generation rate limited as set forth in the evaluation, and with other limits set forth in the facility's technical specifications, the ECCS cooling performance for the facility would conform with the criteria contained in 10 CFR 50.46(b) which govern calculated peak clad temperature, maximum cladding oxidation, maximum hydrogen generation, coolable geometry and long-term cooling.

Recently, the NRC staff was informed by General Electric that several errors had been discovered in the computer codes used to calculate peak clad temperature and the clad oxidation percentage in the General Electric ECCS evaluation mode. These errors have been discovered by General Electric during a continuing internal Quality Assurance (QA) audit of their LOCA evaluation model codes. The additional effort expended by the vendor to enhance the assurance of the quality of its evaluation model, the staff believes, was prudent and desirable. This audit is still under way and the errors reported reflect those found to date. Identification of additional errors of a minor nature may still be uncovered during the ongoing QA checks.

While some of these errors discussed herein have either no significant effect or a conservative effect on the evaluation results, one or more of the errors included in the Duane Arnold ECCS evaluation leads to nonconservative values. Based on a preliminary assessment, including information and supportive calculations by General Electric, the NRC staff has determined that the combined effect of the following code errors, when corrected, could produce ECCS evaluation results which would require no reduction in operating limits for Duane Arnold.

(1) *Pressure rule.* The LAMB code is used to calculate system pressure during the LOCA. This calculated pressure is then used as an input to the REFLOOD code which calculates the water level vs time relationship in the core. General Electric used an approximation of the pressure response of the LAMB code that was thought, at the time of approval, to be an acceptable representation of the physical phenomena involved. Later application of this approximation to certain cases showed it to be non-conservative. General Electric proposes to correct this nonconservatism by utilizing a conservative approximation to the pressure rule for input into REFLOOD. This correction increases reflood time by 0 to 50 seconds and decreases MAPLHGR by 0 to 5%.

(2) *Bundle vaporization.* General Electric has used incorrect coefficients in the calculation of the amount of vaporization occurring during core spray. The vapor formation in the bundle is a prime determinant of the amount of spray water that can get through the upper tie plate and reflood the core. The vapor formation was under-calculated by approximately 4% resulting in a 20-second increase in reflooding time and about a 2% decrease in the MAPLHGR.

(3) *Discharge break modeling.* General Electric proposes to take credit for an approved model for suction line friction (from the vessel nozzle to the discharge side of the recirculation pump) that improves reflooding time for the discharge break by approximately 15 seconds. This increases the MAPLHGR

for discharge break limited plants by about 1.5%. This error does not apply to Duane Arnold.

(4) *Structural absorption of gamma heat.* General Electric has erroneously taken double credit for power generation in non-fuel structural material. This error does not apply to Duane Arnold.

(5) *Increased counter current flow limiting (CCFL) differential pressure.* Some experimental evidence exists that the differential pressure in a fuel assembly during periods of CCFL may be higher than previously assumed. This could cause a delay in reflood time. Correction of this error reduces the Duane Arnold MAPLHGR by 1% to 2%.

(6) *Others.* Several small changes of inputs to the evaluation codes were identified as being necessary to correct errors. They included:

(a) The use of actual plant specific break areas for the LOCA;

(b) A reduced core plate weight;

(c) An increase in the peripheral bypass area used in the counter current flooding calculations;

(d) The correction of a decimal point error in the assumed guide tube thickness; and

(e) Credit is no longer assumed for recirculation loop discharge valve closure during blowdown.

Due to the above errors in the ECCS analysis currently approved by NRC for Duane Arnold, the staff requested the licensee to submit an estimate of the impact of these errors on the peak clad temperature that would result from the worst break, if the errors were corrected. The revised ECCS calculations indicated that the MAPLHGR is conservative considering the cumulative effect of these errors. Although GE Model changes under consideration by the staff generally show that MAPLHGR limits even higher than those presently set forth in the Technical Specifications for Duane Arnold would still satisfy ECCS limits, no credit for such an increase was considered by the NRC.

Parametric studies and calculational runs for typical boiling reactor models demonstrate that the operation with the Duane Arnold facility MAPLHGR, as set forth in the licensee's application dated January 31, 1977, will conservatively assure that calculated peak clad temperatures in the event of postulated cooling accidents would not exceed 2200 F and that the other criteria of 10 CFR 50.46 (b) will be satisfied. Operation of the facility would nevertheless be technically in non-conformance with the requirements of § 50.46, in that specific computer runs for the particular facility employing the revised model as a complete entity will not be complete for some time. However, operation as proposed in the licensee's application dated January 31, 1977, will assure that the ECCS system will conform to the performance criteria of § 50.46. Accordingly, while the actual computer runs for the specific facility are carried out to achieve full compliance with 10 CFR 50.46, operation of the facility will not endanger life or property or the common defense and security.

In the absence of any safety problem associated with operation of the facility during the period until the computer computations are completed, there appears to be no public interest consideration favoring restriction of the operation of the captioned facility. Accordingly, the Commission has determined that an exemption in accordance with 10 CFR 50.12 is appropriate. The specific exemption is limited to the period of time necessary to complete computer calculations.

The operating limitations set forth in the licensee's submittal in accordance with 10 CFR 50.46(a) (iv) are no longer effective. Since that submittal on July 9, 1975, a new core has been proposed for operation having different fuel thermal and hydraulic characteristics, which have necessitated a revised ECCS performance evaluation, and revised ECCS based operating limitations discussed above. Consequently, the procedural requirements of 10 CFR 50.46(a) (vi) are not applicable to such exemption authorization.

III

Copies of the following documents are available for inspection at the Commission's Public Document Room at 1717 H Street, Washington, D.C. 20555 and are being placed in the Commission's local public document room at the Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401:

(1) Letters from General Electric to NRC dated February 14, 1977, and January 26, 1977;

(2) Letters from Iowa Electric Light & Power Company to Mr. George Lear, Operating Reactors Branch No. 3, dated January 8, 1977, February 18, 1977, and February 21, 1977.

(3) Letter dated January 31, 1977, from Iowa Electric Light and Power Company to NRC; and

(4) This Exemption in the matter of Iowa Electric Light and Power Company (Duane Arnold Energy Center).

Wherefore, in accordance with the Commission's regulations as set forth in 10 CFR Part 50, the licensee is hereby granted an exemption from the requirements of 10 CFR 50.46(a) (i) that ECCS performance be calculated in accordance with an acceptable calculational model which conforms to the provisions in Appendix K, without the errors discussed herein. This exemption is conditioned as follows:

(1) As soon as possible, the licensee shall submit a re-evaluation of ECCS cooling performance calculated in accordance with General Electric Company's Evaluation Model approved by the NRC staff and corrected for the errors described herein and any other corrections in the model of which the licensee is aware at the time the calculations are performed.

Dated in Bethesda, Maryland, this 11th day of March 1977.

For the Nuclear Regulatory Commission.

BEN C. RUSCHE,
Director, Office of Nuclear Reactor Regulation.

[FR Doc.8276 Filed 3-18-77;8:45 am]

[Docket No. 50-331]

IOWA ELECTRIC LIGHT AND POWER CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 29 to Facility Operating License No. DPR-49, issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revised Technical Specifications for operation of the Duane Arnold Energy Center, located in Linn County, Iowa. The amendment is effective as of its date of issuance.

The amendment corrected inadvertent oversights of previously reviewed and approved changes relating to frequency and functional test requirements for the facility's Reactor Protection System instrumentation and the trip setting associated with the Reactor Core Isolation Cooling System Turbine High Flow.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d) (4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this amendment.

For further details with respect to this action, see (1) the applications for amendment dated July 27, 1976 and supplement thereto dated August 4, 1976, (2) Amendment No. 29 to License No. DPR-49, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Cedar Rapids Public Library, 426 Third Avenue SE., Cedar Rapids, Iowa 52401.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 14th day of March, 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-8277 Filed 3-18-77;8:45 am]

[Dockets Nos. 50-245 and 50-336]

NORTHEAST NUCLEAR ENERGY CO., ET AL.

Issuance of Amendments to Facility Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 36 to Provisional Operating License No. DPR-21 and Amendment No. 24 to Facility Operating License No. DPR-65, issued to Northeast Nuclear Energy Company, The Connecticut Light and Power Company, the Hartford Electric Light Company, and Western Massachusetts Electric Company (the licensees), which revised the Environmental Technical Specifications for operation of the Millstone Nuclear Power Station, Units Nos. 1 and 2 (the facilities), located in the Town of Waterford, Connecticut. The amendments are effective as of their date of issuance.

The amendments modified the Environmental Technical Specifications for the facilities to (1) decrease the counting frequency of impinged species of fish and shellfish from daily to three times per week and delete the prompt reporting requirement in the event that monthly fish impingement limits are exceeded and (2) substitute an additional monthly thermoluminescent dosimeter (TLD) sample for the previously approved semi-annual TLD sample.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the proposed action.

For further details with respect to this action, see (1) the applications for amendment dated September 1, 1976 (as supplemented by letter dated December 24, 1976) and January 7, 1977, (2) Amendments Nos. 36 and 24 to Licenses Nos. DPR-21 and DPR-65, and (3) the Commission's related Safety Evaluation and Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06101.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 10th day of March 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-8278 Filed 3-18-77;8:45 am]

[Docket No. 50-245]

NORTHEAST NUCLEAR ENERGY CO.; (MILLSTONE NUCLEAR POWER STATION UNIT NO. 1)

Order for Modification of License

I

The Northeast Nuclear Energy Company (the licensee), is the holder of Provisional Operating License No. DPR-21 which authorizes the operation of the nuclear power reactor known as Millstone Nuclear Power Station Union No. 1 (the facility) at steady state reactor power levels not in excess of 2011 megawatts thermal (rated power). The facility consists of a boiling water reactor (BWR) located at the licensee's site in the town of Waterford, Connecticut.

II

In conformance with evaluations of the performance of the Emergency Core Cooling System (ECCS) of the facility submitted by the licensee on July 9, 1975, and a supplement thereto dated August 18, 1976, the Technical Specifications issued for the facility on November 19, 1976, limit the Average Planar Linear Heat Generation Rates to the values shown on Technical Specification Figures 3.11-1A through 3.11-1F. The ECCS performance evaluation submitted by the licensee was based upon a previously approved ECCS evaluation model developed by General Electric Company (General Electric), the designer of the facility. This model has been found to conform to the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR Part 50, 50.46 and Appendix K. The evaluation indicated that with the average planar linear heat generation rate limited as set forth above, and with the other limits set forth in the facility's technical specifications, the ECCS cooling performance for the facility would conform with the criteria contained in 10 CFR 50.46(b) which govern calculated peak clad temperature, maximum cladding oxidation, maximum hydrogen generation, coolable geometry and long term cooling.

Recently, the NRC staff was informed by General Electric that several errors had been discovered in the computer codes used to calculate peak clad temperature and the clad oxidation percentage in the General Electric evaluation model. These errors had been discovered by General Electric during a continuing internal Quality Assurance audit of their LOCA evalution model codes. This audit is still under way and the errors reported reflect those found to date. The additional effort expended by the vendor to enhance the assurance of the quality of its evaluation model, the staff believes, was prudent and desirable. Indentification of additional errors of a minor nature may still develop during the ongoing QA checks. Nonetheless, the staff believes it appropriate to order the correction of those uncovered thus far. While some of these errors discussed herein have either no significant effect or a conservative effect on the evaluation results, one or more of the errors included in the Millstone ECCS evaluation leads to nonconservative values. Based on a preliminary assessment, including information and supportive calculations by General Electric, the NRC staff has determined that the combined effect of the following code errors would, when corrected, result in an ECCS evaluation, requiring a reduction in operating limits for Millstone Unit No. 1.

(1) *Pressure rule.* The LAMB code is used to calculate system pressure during the LOCA. This calculated pressure is then used as an input to the REFLOOD code which calculates the water level vs time relationship in the core. General Electric used an approximation of the pressure response of the LAMB code that was thought, at the time of approval, to be an acceptable representation of the physical phenomena involved. Later application of this approximation to certain cases showed it to be non-conservative. General Electric proposes to correct this nonconservatism by utilizing a conservative approximation to the pressure rule for input into REFLOOD. This correction increases reflood time by 0 to 50 seconds and decreases MAPLHGR by 0 to 5%.

(2) *Bundle vaporization.* General Electric has used incorrect coefficients in the calculation of the amount of vaporization occurring during core spray. The vapor formation in the bundle is a prime determinant of the amount of spray water that can get through the upper tie plate and reflood the core. The vapor formation was under-calculated by approximately 4% resulting in a 20-second increase in reflooding time and about a 2% decrease in the MAPLHGR.

(3) *Discharge break modeling.* General Electric proposes to take credit for an approved model for suction line friction (from the vessel nozzle to the discharge side of the recirculation pump) that improves reflooding time for the discharge break by approximately 15 seconds. This increases the MAPLHGR for discharge break limited plants by about 1.5%. This error does not apply to Millstone Unit No. 1.

(4) *Structural absorption of gamma heat.* General Electric has erroneously taken double credit for power generation in non-fuel structural material. Correc-

tion of this error results in approximately a 4% decrease in the MAPLHGR for certain plants. This error does not apply to Millstone Unit No. 1.

(5) *Increased counter current flow limiting (CCFL) differential pressure.* Some experimental evidence exists that the differential pressure in a fuel assembly during periods of CCFL may be higher than previously assumed. This could cause a delay in reflood time. Correction of this error reduces the Millstone Unit No. 1 MAPLHGR by 1 to 2%.

(6) *Others.* Several small changes of inputs to the evaluation codes were identified as being necessary to correct errors. They included:

(a) The use of actual plant specific break areas for the LOCA;
(b) A reduced core plate weight;
(c) An increase in the peripheral bypass area used in the counter current flooding calculations;
(d) The correction of a decimal point error in the assumed guide tube thickness; and
(e) Credit is no longer assumed for recirculation loop discharge valve closure during blowdown.

Due to the errors in the ECCS analysis currently aproved by NRC for Millstone Unit No. 1, the staff requested the licensee to submit an estimate of the impact of these errors on the peak clad temperature that would result from the worst break, if the errors were corrected. The revised ECCS calculations indicated that the MAPLHGR should be reduced by approximately 1% to accommodate the cumulative effect of these errors. On the other hand, the NRC staff is currently reviewing General Electric's most recent ECCS model revisions some of which have effects offsetting such a reduction. These revisions included:

(1) *CHASTE 04 computer code change.* The CHASTE code has been modified to incorporate an improved conduction solution for the calculation of fuel rod temperatures and more detailed evaluation of view factors for calculation of rod to rod radiation of heat.

(2) *REFLOOD 05 computer code revision.* The REFLOOD code was modified to correct a logic eror in the evaluation of the flow split between the core and the jet pumps. This logic error only occurred for certain plant calculations and determined the fraction of steam used to evaluate the counter current flow limiting phenomenon which limits the penetration of spray cooling water into the lower plenum and therefore increase the reflood time for the core.

(3) *Partially drilled core credit.* The partial drilling correction gives credit for additional flow paths provided by drilling holes in the bottom nozzle of the area enhances the refill of the lower plenum by spray cooling water following the postulated Loss-of-Coolant Accident and results in a faster core reflood which reduces peak clad temperatures.

Although the entire group of model changes is still under review, the staff has completed its review of the CHASTE and REFLOOD changes and has concluded that they may be used in GE's ECCS performance evaluation model. While revised computer runs incorporating these changes in the model as a whole have not yet been run for a spectrum of break for all plants, the parametric studies performed by GE to determine the effect of these changes demonstrates that they will in turn result in changes of at least a 1% MAPLHGR increase for 7 x 7 fuel assemblies up to 15,000 MWD/t, a 4% increase for 7 x 7 fuel assemblies at fuel burnups greater than 15,000 MWD/t, and a 1% MAPLHGR increase for 8 x 8 fuel assemblies at all burnups. These values may be used to offset the reductions discussed above, and the cumulative effect of the error corrections and model changes verifies that the Millstone Unit No. 1 current MAPLHGR's are adequately conservative.

The staff expects that when final revised calculations for the facility are submitted using the revised and corrected model, they will demonstrate that operation with the linear heat generation rates set forth in this Order will conform to the Criteria of 10 CFR 50.46 (b). Such revised calculations fully conforming to the requirements of 10 CFR 50.46 are to be provided for the facility as soon as possible.

As discussed herein, the present MAPLHGR limits for this facility are such that they assure that the ECCS will conform to the performance requirements of 10 CFR 50.46. Accordingly, such limits provide reasonable assurance that the public health and safety will not be endangered.

Upon notification by the NRC staff on February 14, 1977, the licensee committed to submit a re-evaluation of the ECCS performance of Millstone Unit No. 1 on a timely basis. The staff believes that the licensee's action, under the circumstances, is appropriate and that this action should be confirmed by NRC Order.

III

Copies of the following documents are available for inspection at the Commission's Public Document Room at 1717 H Street, Washington, D.C. 20555 and are being placed in the Commission's local public document room at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06101:

(1) Letters from General Electric to NRC dated February 14, 1977, and January 26, 1977;

(2) Letters from Northeast Nuclear Energy Company to the Director of Nuclear Reactor Regulation dated January 19, 1977, and February 22 and 25, 1977;

(3) Letter dated July 9, 1975 from Northeast Nuclear Energy Company to NRC and supplement thereto dated August 18, 1976;

(4) This Order for Modification of License in the matter of Northeast Nuclear Energy Company (Millstone Nuclear Power Station Unit No. 1).

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, *It is ordered,* That Facility Operating License No. DPR-21 is hereby amended by adding the following new provision:

(1) As soon as possible, the licensee shall submit a re-evaluation of ECCS cooling performance calculated in accordance with General Electric Company's Evaluation Model approved by the NRC staff and corrected for the errors described herein and any other corrections in the Model of which the licensee is aware at the time the calculations are performed.

Dated in Bethesda, Maryland, this 11th day of March 1977.

For the Nuclear Regulatory Commission.

BEN C. ROUCHE,
Director, Office of Nuclear Reactor Regulation.

[FR Doc.77-8279 Filed 3-18-77;8:45 am]

[Docket No. 50-277]

PHILADELPHIA ELECTRIC CO.; (PEACH BOTTOM ATOMIC POWER STATION UNIT NO. 2)

Order for Modification of License and Exemption

I

The Philadelphia Electric Company (the licensee), is the holder of Facility Operating License No. DPR-44 which authorizes the operation of the nuclear power reactor know as Peach Bottom Atomic Power Station Unit No. 2 (the facility) at steady state reactor power levels not in excess of 3253 megawatts thermal (rated power). The facility consists of a boiling water reactor (BWR) located at the licensee's site in Peach Bottom, York County, Pennsylvania.

II

In conformance with evaluations of the performance of the Emergency Core Cooling System (ECCS) of the facility submitted by the licensee on July 9, 1975, and a supplements thereto dated September 10, 1975, October 1, 24 and 30, 1975, and November 7, 18 and 20, 1975, the Technical Specifications issued for the facility on June 11, 1976, limit the Average Planar Linear Heat Generation Rates to the values shown on Technical Specification Figures 3.5.1.A, B, F and G. The ECCS performance evaluation submitted by the licensee was based upon a previously approved ECCS evaluation model developed by General Electric Company (General Electric), the designer of the facility. This model has been found to conform to the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR Part 50 50.46 and Appendix K. The evaluation indicated that with the average planar linear heat generation rate limited as set forth above, and with the other limits set forth in the facility's Technical Specifications, the ECCS cooling performance for the facility would conform with the criteria contained in 10 CFR 50.46(b) which govern calculated peak clad temperature, maximum cladding oxidation, maximum

hydrogen generation, coolable geometry and long term cooling.

Recently, the NRC staff was informed by General Electric that several errors had been discovered in the computer codes used to calculate peak clad temperature and the clad oxidation percentage in the General Electric evaluation model. These errors have been discovered by General Electric during a continuing internal Quality Assurance (QA) audit of their LOCA evaluation model codes. This audit is still under way and the errors reported reflect those found to date. The additional effort expended by the vendor to enhance the assurance of the quality of its evaluation model, the staff believes, was prudent and desirable. Identification of additional errors of a minor nature may still develop during the ongoing QA checks. Nonetheless, the staff believes it appropriate to order the correction of those uncovered thus far. While some of these errors discussed herein have either no significant effect or a conservative effect on the evaluation results, one or more of the errors included in the Peach Bottom Unit No. 2 ECCS evaluation leads to non-conservative values, Based on a preliminary assessment, including information and supportive calculations by General Electric, the NRC staff has determined that the combined effect of the following code errors would, when corrected, result in an ECCS evaluation requiring no reduction in operating limits for Peach Bottom Unit No. 2.

(1) *Pressure rule.* The LAMB code is used to calculate system pressure during the LOCA. This calculated pressure is then used as an input to the REFLOOD code which calculates the water level vs time relationship in the core. General Electric used an approximation of the pressure response of the LAMB code that was thought, at the time of approval, to be an acceptable representation of the physical phenomena involved. Later application of this approximation to certain cases showed it to be nonconservative. General Electric proposes to correct this nonconservatism by utilizing a conservative approximation to the pressure rule for input into REFLOOD. This correction increases reflood time by 0 to 50 seconds and decreases MAPLHGR by 0 to 5%.

(2) *Bundle vaporization.* General Electric has used incorrect coefficients in the calculation of the amount of vaporization occurring during core spray. The vapor formation in the bundle is a prime determinant of the amount of spray water that can get through the upper tie plate and reflood the core. The vapor formation was under-calculated by approximately 4% resulting in a 20-second increase in reflooding time and about a 2% decease in the MAPLHGR.

(3) *Discharge break modeling.* General Electric proposes to take credit for an approved model for suction line friction (from the vessel nozzle to the discharge side of the recirculation pump) that improves reflooding time for the discharge break by approximately 15 seconds. This increases the MAPLHGR for discharge break limited plants by about 1.5%.

(4) *Structural absorption of gamma heat.* General Electric has erroneously taken double credit for power generation in non-fuel structural material. Correction of this error results in approximately a 4% decrease in the MAPLHGR for certain plants. This error does not apply to Peach Bottom Unit No. 2.

(5) *Increased counter current flow limiting (CCFL) differential pressure.* Some experimental evidence exists that the differential pressure in a fuel assembly during periods of CCFL may be higher than previously assumed. This could cause a delay in reflood time. Correction of this error reduces the Peach Bottom Unit No. 2 MAPLHGR by 1%.

(6) *Others.* Several small changes of inputs to the evaluation codes were identified as being necessary to correct errors. They included:

(a) The use of actual plant specific break areas for the LOCA;

(b) A reduced core plate weight;

(c) An increase in the peripheral bypass area used in the counter current flooding calculations;

(d) The correction of a decimal point error in the assumed guide tube thickness; and

(e) Credit is no longer assumed for recirculation loop discharge valve closure during blowdown.

Due to the errors in the ECCS analysis currently approved by NRC for Peach Bottom Unit No. 2, the staff requested the licensee to submit an estimate of the impact of these errors on the peak clad temperature that would result from the worst break, if the errors were corrected. The revised ECCS calculations indicated that the MAPLHGR should be reduced by approximately 6% to accommodate the cumulative effect of these errors. On the other hand, the NRC staff is currently reviewing General Electric's most recent ECCS model revisions some of which have effects offsetting such a reduction. These revisions included:

(1) *CHASTE 04 computer code change.* The CHASTE code has been modified to incorporate an improved conduction solution for the calculation of fuel rod temperatures and more detailed evaluation of view factors for calculation of rod to rod radiation of heat.

(2) *Reflood 05 computer code revision.* The REFLOOD code was modified to correct a logic error in the evaluation of the flow split between the core and the jet pumps. This logic error only occurred for certain plant calculations and determined the fraction of steam used to evaluate the counter current flow limiting phenomenon which limits the penetration of spray cooling water into the lower plenum and therefore increase the reflood time for the core.

(3) *Partially drilled core credit.* The partial drilling correction gives credit for additional flow paths provided by drilling holes in the bottom nozzle of the fuel assemblies. This additional flow area enhances the refill of the lower plenum by spray cooling water following the postulated Loss-of-Coolant Accident and results in a faster core reflood which reduces peak clad temperatures.

Although the entire group of model changes is still under review, the staff has completed its review of the CHASTE and REFLOOD changes and has concluded that they may be used in GE's ECCS performance evaluation model. While revised computer runs incorporating these changes in the model as a whole have not yet been run for a spectrum of break for all plants, the parametric studies performed by GE to determine the effect of these changes demonstrate that they will in turn result in changes of at least a 6% MAPLHGR increase for 7 x 7 fuel assemblies up to 10,500 MWD/t, a 8% increase for 7 x 7 fuel assemblies at fuel burnups greater than 10,500MWD/t, and a 6% MAPLHGR increase for 8 x 8 fuel assemlies at all burnups. These values may be used to offset the reductions discussed above, and the cumulative effect of the error corrections and model changes verifies that the Peach Bottom Unit No. 2 current MAPLHGR's are adequately conservative.

The staff expects that when final revised calculations for the facility are submitted using the revised and corrected model, they will demonstrate that operation with the linear heat generation rates currently authorized will conform to the Criteria of 10 CFR 50.46(b). Such revised calculations fully conforming to the requirements of 10 CFR 50.46 are to be provided for the facility as soon as possible.

As discussed herein, the present MAPLHGR limits for this facility are such that they assure that the ECCS will conform to the performance requirements of 10 CFR § 50.46. Accordingly, such limits provide reasonable assurance that the public health and safety will not be endangered.

Upon notification by the NRC staff on February 14, 1977, the licensee committed to submit a re-evaluation of the ECCS performance of Peach Bottom Unit No. 2 on a timely basis. The staff believes that the licensee's action, under the circumstances, is appropriate and that this action should be confirmed by NRC Order.

The facility is scheduled to be reloaded in April and May 1977, which may precede the completion of the required calculations. In the absence of safety significance in the period until the computer computations are completed, there appears no public interest in restricting the operation of the captioned facility. Accordingly, the Commission has determined that an exemption in accordance with 10 CFR 50.12 authorizing operation with such reload is appropriate. Such Exemption shall be limited to the period of time necessary to complete computer calculations.

Copies of the following documents are available for inspection at the Commission's Public Document Room at 1717 H Street, Washington, D.C. 20555 and are being placed in the Commission's local public document room at the Martin

Memorial Library, 159 E. Market Street, York, Pennsylvania 17401:

(1) Letters from General Electric to NRC dated February 14, 1977, and January 26, 1977;

(2) Letters from Philadelphia Electric Company to George Lear, Chief, Operating Reactors Branch #3, dated January 28, 1977, February 18, 1977;

(3) Letter dated July 9, 1975 from Philadelphia Electric Company to NRC and supplements thereto dated September 10, 1975, October 1, 24 and 30, 1975, and November 7, 18 and 20, 1975.

(4) This Order and Exemption in the matter of Philadelphia Electric Company (Peach Bottom Atomic Power Station Unit No. 2).

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered, That Facility Operating License No. DPR-44 is hereby amended by adding the following new provision:

(1) As soon as possible, the licensee shall submit a re-evaluation of ECCS cooling performance calculated in accordance with General Electric Company's Evaluation Model approved by the NRC staff and corrected for the errors described herein and any other corrections in the Model of which the licensee is aware at the time the calculations are performed.

Dated in Bethesda, Maryland, this 11th day of March 1977.

For the Nuclear Regulatory Commission.

BEN C. RUSCHE,
Director, Office of Nuclear Reactor Regulation.

[FR Doc.77-8281 Filed 3-18-77;8:45 am]

NRC'S ADVISORY COMMITTEES

Review

This is to announce that the Nuclear Regulatory Commission is seeking public comment in connection with the annual comprehensive review of advisory committees now being undertaken as directed by the President on February 25, 1977 and in accordance with Office of Management and Budget guidance provided in Circular No. A-63, Transmittal Memorandum No. 5, dated March 7, 1977.

All agencies have been directed to conduct this government-wide zero-base review taking into account the following considerations: (1) is there a compelling need for each committee, because, for example, the information or advice cannot be obtained from other sources within the agency or other agencies; (2) does each committee have truly balanced membership in terms of points of view represented and functions to be performed; and (3) does each committee conduct its business as openly as possible consistent with the law and its mandate.

The NRC is now in the process of conducting this review for its two advisory committees, the Advisory Committee on Reactor Safeguards and the Advisory Committee on the Medical Uses of Isotopes. A brief description of the committees follows:

a. *Advisory Committee on Reactor Safeguards.* This committee was established by Section 29 of the Atomic Energy Act of 1954, as amended, to review safety studies and facility license applications and to advise the Commission with regard to the hazards of proposed or existing reactor facilities and the adequacy of proposed reactor safety standards. It is composed of a maximum of fifteen members who represent diverse scientific and engineering specialties relating to nuclear reactor design, construction and operation. This committee, its subcommittees and working groups hold approximately 110 meetings annually and issue about 60 reports.

b. *Advisory Committee on Medical Uses of Isotopes.* This committee was established under agency authority to review and provide recommendations on applications for licenses related to the medical uses of isotopes. It is composed of nine members who represent various fields of nuclear medicine, radiology, and pathology. This committee provides advice and recommendations to the NRC staff primarily through the submission of individual members' comments on licenses for new or complex uses of radioisotopes in medicine.

The NRC is required to complete its review and submit its determination to the Office of Management and Budget not later than April 15, 1977. Therefore, any public comments and recommendations concerning NRC's advisory committees should be provided to the NRC as soon as possible, and in any event no later than April 4, 1977. Interested persons should direct their comments in writing to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Advisory Committee Management Officer.

Dated at Washington, D.C., this 16th day of March 1977.

NOTE: This is a republication of a document originally published at 42 FR 15155, March 18, 1977.

JOHN C. HOYLE,
Advisory Committee, Management Officer.

[FR Doc.77-8354 Filed 3-17-77;8:45 am]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

FEDERAL ADVISORY COMMITTEES

Review

The Office of Science and Technology Policy is conducting a comprehensive review of its advisory groups and is soliciting input from all interested persons for this evaluation.

In the letter of February 25, 1977, to the heads of Executive Departments and Establishments, the President expressed his concern about the number and usefulness of Federal advisory committees, and directed that the comprehensive review be conducted on a zero-based concept and be predicated on the principle that all committees should be abolished except those (1) for which there is a compelling need; (2) which have truly balanced membership; and (3) which conduct their business as openly as possible consistent with the law and their mandate. He further stated that each agency should provide for open and public participation in its review process to the maximum extent possible.

All comments should be directed to the Executive Officer, Office of Science and Technology Policy, Executive Office of the President, 17th and Pennsylvania Avenue NW., Washington, D.C. 20500, no later than April 5, 1977. These comments will be forwarded to the appropriate officials for consideration in the review process.

In accordance with the President's letter and further instructions from the Office of Management and Budget, the review will be conducted by the OSTP, and will encompass the following advisory groups:

President's Committee on Science and Technology
Intergovernmental Science, Engineering and Technology Advisory Panel

WILLIAM J. MONTGOMERY,
Executive Officer.

MARCH 16, 1977.

[FR Doc.77-8376 Filed 3-18-77;8:45 am]

RAILROAD RETIREMENT BOARD

BOARD MEETING

Addition to Agenda

The following additional items will be discussed at the meeting of the Railroad Retirement Board to be held March 23, 1977, commencing at 10:00 a.m. in the Board's meeting room on the 8th floor of its headquarters building at 844 Rush Street, Chicago, Illinois, 60611:

(10) Approval of Circular letter to data processing and accounts certification contact officials clarifying the exclusion of sickness benefits as creditable compensation under Public Law 94-547.

(11) Extension of time to transferred Board Employee to negotiate sale of her property at former duty station.

The entire meeting will be open to the public.

Dated: March 16, 1977.

By Authority of the Board.

ROBERT A. RUSSELL,
Washington Liaison Officer.

[FR Doc.77-8405 Filed 3-18-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 33-5816, IC-9673]

INVESTMENT ANNUITIES

Withdrawal of No-Action Letters

The Securities and Exchange Commission today announced that in view of the recent change in tax treatment of investment annuities and the resulting disclosure problems, the Division of Investment management indicated on March 7, 1977 that it was withdrawing prospectively its previously issued no-action

letters with respect to investment annuity contracts and the issuers of such contracts.

Investment annuity contracts are contracts issued by life insurance companies in which benefits vary depending upon the investment performance of the assets held as reserves for contract liabilities. In an investment annuity the purchaser is permitted to direct the investment of the assets held in a segregated custodial account and, typically, can select investment media for his annuity contributions from a very broad list of acceptable assets.

On many previous occasions the Division of Investment Management has been asked to provide no-action assurance with respect to the offer and sale of investment annuity contracts without registration of such contracts under the Securities Act of 1933 ("1933 Act") [15 U.S.C. 77a–1 et seq.], and without registration of the issuers of such contracts under the Investment Company Act of 1940 ("1940 Act") [15 U.S.C. 80a–1 et seq.]. The Division of Investment Management had agreed not to recommend enforcement action if such contracts were offered and sold without registration under the 1933 and 1940 Acts, subject to certain conditions, and if the companies proceeded in reliance on opinions of counsel that such arrangements were not securities subject to registration and that the issuers of such contracts were not investment companies.

In past letter rulings on the tax status of investment annuities, the Internal Revenue Service ("IRS") held that an investment annuity contract was an annuity contract for tax purposes, and, accordingly, the assets in the purchaser's custodial account were to be viewed as belonging to the insurance company. Investment annuities were thus deemed contracts with reserves based on segregated asset accounts in a manner similar to variable annuities. The effect of this was that the purchaser and the insurance company pay no federal income taxes on the income, and, in some cases, on the short-term capital gains generated by the assets in the custodial account. The purchaser is taxed on the appreciation in his custodial account when he terminates his investment annuity contract, or, if he annuitizes, a portion of his annuity payments will be taxed.

However, on October 20, 1976 (IR–1679), the IRS announced that it was reconsidering the income tax treatment of investment annuity accounts and similar contracts issued by life insurance companies.

Due to the growing uncertainty as to the future tax status of investment annuities, the resulting fact that the nature of the investment could not properly be understood without appropriate new disclosure, and the probability that changes will be made in the structure of the product, on March 7, 1977 the Division of Investment Management withdrew its past no-action assurances to the issuers of investment annuity contracts.

On March 9, 1977, the IRS issued a revenue ruling [Revenue Ruling 77–85, 1977–15 Internal Revenue Bulletin] which reversed the tax treatment of investment annuity contracts sold after the date of the ruling. Under such ruling, the purchaser will be viewed as the owner of the assets in his custodial account due to his retained powers over such assets. Since the assets will be viewed as still belonging to the purchaser, the income and capital gains generated by such assets will be includable in his gross income for the year in which they are received by the custodian. However, the past favorable tax treatment will continue to apply to existing contractholders with respect to contributions made prior to the date of the ruling. Also, additional contributions on existing contracts issued in connection with qualified retirement or annuity plans will continue to get favorable tax treatment.

In light of the above, particularly the need for significant new disclosure and the likelihood that substantial changes will be made in the structure of investment annuities, the Division of Investment Management is unable to assure that it would not recommend enforcement action if investment annuity contracts are offered or sold or additional contributions are accepted on contracts issued in connection with non-tax-qualified plans after March 7, 1977 without registration under the 1933 and 1940 Acts. However, with respect to investment annuity contracts issued in connection with tax-qualified retirement or annuity plans, the Division will not recommend enforcement action if additional contributions are received on such contracts without registration under the 1933 and 1940 Acts.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 11, 1977.

[FR Doc.77–8367 Filed 3–18–77;8:45 am]

[Release No. 34–13357; File No. SR–MSE–77–5]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organization; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on March 7, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

(Additions italicized [Deletions bracketed])

ARTICLE I

Procedure of Application

Application Rule 5(a) Each application for membership shall be made in writing and be filed with the Secretary together with the names of two sponsors [acceptable to the Exchange, at least one of whom shall be a member] *who shall be responsible individuals who have known the applicant sufficiently well and over a long enough period of time that they can unqualifiedly endorse the character and integrity of the applicant from their personal knowledge of him and of his business connections.* All applications shall be investigated by the staff to determine if the applicant meets the requirements for membership before submission to the Executive Committee for consideration.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to remove the requirement that one of the sponsors of an applicant for membership be a member. In lieu thereof, the requirement for sponsors would be that they be responsible individuals who have known the applicant sufficiently well over a long enough period of time that they can unqualifiedly endorse the character and integrity of the applicant.

The sponsorship requirement in this Rule is to assist the Exchange in determining that a member has not engaged in acts or practices inconsistent with just and equitable principles of trade, as permitted by Section 6(c)(3)(A) of the Securities Act Amendment of 1975. Removal of the requirement that one of the sponsors be a member of the Exchange removes an impediment to membership not necessary or appropriate in furtherance of objection has elapsed and no notice of

Comments have neither been solicited nor received.

The Midwest Stock Exchange, Incorporated believes that this rule change removes a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

Within 35 days of the date of the publication of this notice in the FEDERAL REGISTER (April 25, 1977), or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and

should be submitted on or before April 11, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 11, 1977.

[FR Doc.77-8366 Filed 3-18-77;8:45 am]

[Release No. 13363: SR-MSRB-76-4]

MUNICIPAL SECURITIES RULEMAKING BOARD

Order Delaying Effective Date of Proposed Rule Change

MARCH 14, 1977.

Pursuant to Section 19(b) of the Securities Exchange Act of 1934, as amended (the "Act"), the Commission issued an order approving, effective April 1, 1977, a proposed rule change filed by the Municipal Securities Rulemaking Board (the "Board"), Suite 507, 1150 Connecticut Avenue NW., Washington, D.C. 20006, establishing recordkeeping and preservation requirements for municipal securities brokers and municipal securities dealers. Securities Exchange Act Release No. 13296 (February 24, 1977) (42 FR 12282) (March 3, 1977), supplemented by Securities Exchange Act Release No. 13296A (March 2, 1977).

The Board requested that the effective date of these rules be delayed to April 25, 1977 in order to insure an appropriate period for implementation by affected registrants. The Commission has determined to delay the effective date in accordance with the Board's request.

It is therefore ordered, Pursuant to Section 19(b) of the Act that the effective date of the Board's proposed rule change approved by the Commission on February 24, 1977 be, and it hereby is, delayed from April 1, 1977 to April 25, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-8368 Filed 3-18-77;8:45 am]

[Release No. 34-13367; File No. SR-NESDTCO-77-2]

NEW ENGLAND SECURITIES DEPOSITORY TRUST CO.

Self-Regulatory Organization; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on March 2, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Proposed Rule Change changes certain of the fees which the self-regulatory organization charges for its securities clearance service.

STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed rule change is to raise the fees for the securities clearance service in such a manner as to enable such service to be operated in a break-even or profitable manner.

The proposed rule change relates to the capacity of New England Securities Depository Trust Company to facilitate the prompt and accurate clearance and settlement of securities transactions by enabling it to carry on its functions in a profitable manner.

No comments have been or are to be solicited from members or participants. Unsolicited comments received from users and prospective users indicated that the raised fees are very competitive and necessary to enable New England Securities Depository Trust Company to carry on its functions.

No burden on competition is expected.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before April 11, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 14, 1977.

EXHIBIT I

TRANSACTION FEES

On sales to:		
Securities transaction service user.		$1.00/transaction.
Non-user Boston Bank.[1]		$1.00/transaction.
Non-user [1]		$2.00/transaction.
On buys from:		
Securities clearance service user.		$1.00/transaction.
Non-user Boston Bank.[1]		$1.25/transaction.
Non-user [1]		$2.00/transaction.
Incoming drafts		$1.25/transaction. $5.00 drop charge.
EITHER WAY		
New York—Boston Transportation additional—2 cents per thousand dollar value + 5 cents/oz.		
Reclamation		$3.00 per reclamation.
Transfer		$3.00 per item transferred.
Messenger service		$5.00 per legal item transferred.
Miscellaneous		$5.00 per delivery when required.
Correction charge		Charges at cost, to Users: drafts, interest, postage, etc. 25 cents.

[1] Non-User transactions always billed to User.

[FR Doc.77-8369 Filed 3-18-77;8:45 am]

[Rel. No. 9674; 811-2645; 811-2651]

FEDERATED MUNICIPAL BOND FUND, LTD. AND MANAGED MUNICIPAL BOND FUND, LTD.

Filing of Application

MARCH 11, 1977.

Notice is hereby given that Federated Municipal Bond Fund, Ltd. ("Federated"), and Managed Municipal Bond Fund, Ltd. ("Managed"), Federated Investors Building, 421 Seventh Avenue, Pittsburgh, Pennsylvania 15219, (collectively referred to as "Applicants"), registered under the Investment Company Act of 1940 (the "Act") as diversified, open-end management investment companies, filed an application on October 22, 1976 and amendments thereto on December 17, 1976, and March 8, 1977, for an order of the Commission, pursuant to Section 8(f) of the Act, declaring that Applicants have ceased to be investment companies as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Federated represents that it proposed to organize as a limited partnership under the laws of the State of Nebraska, and that, on June 28, 1976, it registered under the Act and filed a Form S-5 Registration Statement under the Securities Act of 1933. Managed also represents that it proposed to organize as a limited partnership under the laws of the State of Nebraska, and that, on July 9, 1976, it registered under the Act and filed a Form S-5 Registration Statement under the Securities Act of 1933. However, Applicants represent further (1) that the organizational details and required filings under the limited partnership statutes were not completed; (2) that they engaged in no business activity outside the State of Pennsylvania; and (3) that they were general partnerships under state law.

Applicants state that, as a result of certain provisions of the Tax Reform Act of 1976 permitting income from municipal bonds to be passed through tax free to shareholders of investment companies in corporate form, they have decided not to proceed with registration under the Act and the Securities Act of

1933. Accordingly, Applicants submit that they have requested that their respective Form S–5 Registration Statements be withdrawn, Applicants submit further that neither Applicant ever engaged in any public distribution; that no shares were ever issued; and that they do not intend, singularly or jointly, to have a public offering of their shares. They represent that they have abandoned all activities; that they have ceased to function as partnerships; and that they will not proceed in any other form. Applicants state that neither of them has, or has had, any assets or liabilities, and that their expenses incurred in preparing to organize were absorbed by Federated Investors, Inc.

Section 8(f) of the Act provides, in part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than April 5, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77–8371 Filed 3–18–77;8:45 am]

[Rel. No. 13371; SR–NYSE–77–2]

NEW YORK STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

On January 19, 1977, the New York Stock Exchange, Inc. (the "NYSE") 11 Wall Street, New York, New York 10005, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b–4 thereunder, copies of a proposed rule change. The NYSE proposed to define the meaning of "security" or "securities" in the same manner they are defined under the Act.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication in Securities Exchange Act Release No. 13219 (Jan. 28, 1977) and by publication in the FEDERAL REGISTER (42 FR 7182 (Feb. 7, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–8372 Filed 3–18–77;8:45 am]

[Release No. 13370; SR–PSE–77–4]

PACIFIC STOCK EXCHANGE INC.

Order Approving Proposed Rule Change

MARCH 14, 1977.

On January 19, 1977, the Pacific Stock Exchange Incorporated ("PSE"), 618 South Spring Street, Los Angeles, California 90014, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b–4 thereunder, copies of a proposed rule change which amends Section 1 of PSE Rule VI by adding the words, "and the same unit of trading" to the definition of the term, "Series of Options."

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13231, February 1, 1977) and by publication in the FEDERAL REGISTER (42 FR 8247, February 9, 1977).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–8373 Filed 3–18–77;8:45 am]

[Release No. 13358; SR–PSE–77–3]

PACIFIC STOCK EXCHANGE INC.

Order Approving Proposed Rule Change

MARCH 11, 1977.

On January 17, 1977, the Pacific Stock Exchange Incorporated (the "PSE"), 618 South Spring Street, Los Angeles, California 90014, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), as amended by Pub. L. No. 94–29, § 16 (June 4, 1975), and Rule 19b–4 thereunder, copies of a proposed rule change. The proposed rule change would amend PSE Rule XIII to eliminate restrictions contained therein on the ability of PSE members to effect agency transactions in PSE listed securities over-the-counter with third market makers and non-member block positioners.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13221 (January 28, 1977)) and by publication in the FEDERAL REGISTER (42 FR 7182 (February 7, 1977)). Interested persons were invited to submit written data, views and arguments concerning the submission by March 9, 1977. The Commission has not received any comments concerning the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular the requirements of Section 6 of the Act, the rules and regulations thereunder, and Rule 19c–1 under the Act.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–8374 Filed 3–18–77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1399]

ARIZONA

Declaration of Disaster Loan Area

Yuma County and adjacent counties within the State of Arizona constitute a disaster area because of physical damage caused by heavy rains and flooding from September 23 to 25, 1976. Eligible persons, firms and organizations may file applications for loans for physical damage as a result of flooding until the close of business May 9, 1977 and for economic injury until the close of business December 8, 1977 at:

Small Business Administration, Disaster Branch Office, Parker Public Library, 1091 Navajo Avenue, Parker, Arizona 85344; and Small Business Administration, Disaster

Branch Office, 45-541 Oasis Street, Indio, California 92201,

or other locally announced locations.

Dated: March 9, 1977.

ROGER H. JONES,
Acting Administrator.

[FR Doc. 77-8311 Filed 3-18-77; 8:45 am]

COLUMBIA DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration, Columbia District Advisory Council will hold a public meeting at 10:00 a.m., Thursday, April 7, 1977, at the Carolina Inn, 937 Assembly Street, Columbia, South Carolina, to discuss such business as may be presented by members, staff of the Small Business Administration and others present. For further information, write or call Vern F. Amick, District Director, U.S. Small Business Administration, 1801 Assembly Street, Columbia, South Carolina 29201 (803) 765-5373.

Dated: March 11, 1977.

ANTHONY S. STASIO,
Acting Assistant Administrator for Advocacy and Public Communications.

[FR Doc.77-8307 Filed 3-18-77;8:45 am]

[Declaration of Disaster Loan Area No. 1305]

CONNECTICUT

Declaration of Disaster Loan Area

Fairfield, Middlesex, New Haven, New London and ajacent counties in the State of Connecticut constitute a disaster area because of damage resulting from ice conditions on the Atlantic Ocean, Sounds, Rivers and Tributaries of Connecticut, which occurred from January 1, 1977 through February 28, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage caused by the ice, until the close of business on May 10, 1977, and for economic injury until the close of business on December 12, 1977 at:

Small Business Administration, District Office, One Financial Plaza, Hartford, Connecticut 06103,

or other locally announced locations.

Dated: March 11, 1977.

ROGER H. JONES,
Acting Administrator.

[FR Doc.77-8312 Filed 3-18-77;8:45 am]

HOUSTON DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Houston District Advisory Council will hold a public meeting at 10:00 a.m., Thursday, April 7, 1977, in Suite 705, One Allen Center, 500 Dallas, Houston, Texas, to discuss such matters as may be presented by members, staff of the Small Business Administration or others present. For further information, write or call John L. Carey, District Director, One Allen Center, Suite 705, Houston, Texas 77002, (713) 226-4897.

Dated: March 15, 1977.

ANTHONY S. STASIO,
Acting Assistant Administrator for Advocacy and Public Communications.

[FR Doc.77-8308 Filed 3-18-77;8:45 am]

LUBBOCK DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Lubbock District Advisory Council will hold a public meeting at 8:45 a.m., Friday, April 8, 1977, at South Park Inn, 3201 Loop 289 South at Indiana Avenue, Lubbock, Texas 79413, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call Thomas A. Linguist, Acting District Director, U.S. Small Business Administration, 712 Federal Office Building and Courthouse, 1205 Texas Avenue, Lubbock, Texas 79401 (806) 762-7462.

Dated: March 15, 1977.

ANTHONY S. STASIO,
Acting Assistant Administrator for Advocacy and Public Communications.

[FR Doc.77-8309 Filed 3-18-77;8:45 am]

[Declaration of Disaster Loan Area No. 1287]

MARYLAND

Declaration of Disaster Loan Area

The above numbered Presidential Declaration (see 42 FR 8253) is amended to include the Atlantic Coast of Maryland in those areas previously designated within the State of Maryland. All other conditions remain the same.

Dated: March 10, 1977.

ROGER H. JONES,
Acting Administrator.

[FR Doc.77-8313 Filed 3-18-77;8:45 am]

[Declaration of Disaster Loan Area No. 1303]

MASSACHUSETTS

Declaration of Disaster Loan Area

Bristol, Barnstable, Essex, Middlesex, Norfolk, Plymouth, Suffolk and adjacent Counties within the State of Massachusetts constitute a disaster area because of physical damage caused by ice conditions in the coastal counties of Cape Cod, and on the Sounds and the Atlantic Coast of Massachusetts, beginning about December 1, 1976 through February 25, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage as a result of the ice conditions until the close of business on May 10, 1977, and for economic injury until the close of business on December 12, 1977 at:

Small Business Administration, District Office, 150 Causeway Street—10th Floor, Boston, Massachusetts 02114,

or other locally announced locations.

Dated: March 11, 1977.

ROGER H. JONES,
Acting Administrator.

[FR Doc.77-8314 Filed 3-18-77;8:45 am]

[Declaration of Disaster Loan Area No. 1281; Amdt No. 1]

MINNESOTA

Declaration of Disaster Loan Area

The above numbered Declaration (see 42 FR 3944), is amended by extending the filing date for physical damage until the close of business on March 17, 1977, and for economic injury until the close of business on October 17, 1977.

Dated March 11, 1977.

ROGER H. JONES,
Acting Administrator.

[FR Doc.77-8315 Filed 3-18-77;8:45 am]

[Declaration of Disaster Loan Area No. 1294; Amdt No. 1]

MINNESOTA

Declaration of Disaster Loan Area

The above numbered Declaration (See 42 FR 11301) is hereby amended to include Kittson and Red Lake Counties and adjacent counties, within the State of Minnesota, and to extend the filing date for physical damage until the close of business on May 9, 1977, and for economic injury until the close of business on December 8, 1977.

Dated: March 9, 1977.

ROGER H. JONES,
Acting Administrator.

[FR Doc.77-8316 Filed 3-18-77;8:45 am]

[Declaration of Disaster Loan Area No. 1301]

MISSOURI

Declaration of Disaster Loan Area

Camden County and adjacent counties within the State of Missouri constitute a disaster area because of physical damage caused by formation of ice from extremely cold weather beginning about January 5, 1977 through February 18, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage resulting from ice condition until the close of business on May 9, 1977, and for economic injury until the close of business on December 8, 1977 at:

Small Business Administration, District Office, 12 Grand Bldg.—5th Floor, 1150 Grand Avenue, Kansas City, Missouri 64106,

or other locally announced locations.

Dated: March 9, 1977.

ROGER H. JONES,
Acting Administrator.

[FR Doc.77-8317 Filed 3-18-77;8:45 am]

RICHMOND DISTRICT ADVISORY COUNCIL

Public Meeting

Tthe Small Business Administration Richmond District Advisory Council will hold a public meeting commencing at 1:00 p.m., Thursday, April 7, through Noon on April 8, 1977, at the Richmond Hyatt House, Richmond, Virginia, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call Raymond P. Kuttenkuler, District Director, U.S. Small Business Administration, P.O. Box 10126, Richmond, Virginia 23240, (804) 782-2741.

Dated: March 11, 1977.

ANTHONY S. STASIO,
Acting Assistant Administrator for Advocacy and Public Communications.

[FR Doc.77-8310 Filed 3-18-77;8:45 am]

[Declaration of Disaster Loan Area No. 1302]

RHODE ISLAND

Declaration of Disaster Loan Area

Kent, Newport, Providence, Washington and adjacent counties, within the State of Rhode Island, constitute a disaster area because of physical damage caused by ice conditions along the Atlantic Coast, Bay and Sounds of Rhode Island, beginning about December 1, 1976 through February 23, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage as a result of the ice conditions until the close of business on May 10, 1977 and for economic injury until the close of business on December 12, 1977 at:

Small Business Administration, District Office, 57 Eddy Street, Providence, Rhode Island 02903,

or other locally announced locations.

Dated: March 11, 1977.

ROGER H. JONES,
Acting Administrator.

[FR Doc.77-8318 Filed 3-18-77;8:45 am]

[Proposed License No. 06/06-0190]

SAN ANTONIO VENTURE GROUP, INC.

Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small businenss investment companies (13 C.F.R. Section 107.102 (1976)), under the name of San Antonio Venture Group, Inc., Suite 300, 535 S. Main, San Antonio, Texas 78204, for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (the Act), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and shareholders are as follows:

Emilio S. Nicholas, Chairman of the Board, Director, 111 Paseo Encinal, San Antonio, Texas 78212.

Juan J. Patlan, President, Director, 140 Placid, San Antonio, Texas 78228.

William C. Velasquez, Secretary, Treasurer, Director, 3311 W. Laurel, San Antonio, Texas 78228.

A. John Yoggerst II, General Manager, 1215 Townsend Avenue, San Antonio, Texas 78209.

Mexican American Unity Council Inc., 52 Percent Shareholder, Suite 300, 535 S. Main, San Antonio, Texas 78204.

The Mexican American Unity Council (MAUC) is a not-for-profit corporation chartered in Texas. Its parent organization is the National Council of La Raza, 1725 Eye Street, N.W., Suite 210, Washington, D.C. 20006. MAUC was organized for the purpose of economic, social and educational development in the minority communities of San Antonio.

The National Council of La Raza, 1725 Eye Street, N.W., Washington, D.C. 20006, presently owns approximately 44 percent of Associated Southwest Investors, Inc., 435 N. Wells Fargo, Suite 1, Scottsdale, Arizona 85251, which is a Section 301(d) Licensee. This Section 301(d) Licensee was organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended from time to time, and provides assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

The Applicant has only one class of stock authorized; 500,000 shares of common stock. The proposed initial capitalization is $1,050,000 (105,000 shares issued).

The applicant will offer 120,000 shares of common stock at an issue price of $10 per share. MAUC will acquire 65,000 shares, consisting of 60,000 for cash and 5,000 shares for services rendered to the Applicant. As such, MAUC would own 52 percent of the proposed issued and outstanding stock. The remaining 55,000, or a portion thereof, will be sold to private investors.

SBA will not issue a license to operate as an SBIC until the Applicants initial capitalization is at least $500,000. Pursuant to the provisions of Section 107.101(d)(1)(i), at least $150,000 of this initial capital must be from private sources.

MAUC proposes to use nonprivate funds (i.e., funds granted under Title VII of the Economic Opportunity Act of 1964, as amended) to purchase the aforementioned 60,000 shares of Applicant's common stock.

The Applicant will conduct its operations principally in San Antonio and in other areas within the United States and its territories and possessions as may be approved by SBA from time to time.

Matters involved in SBA's consideration of the Application include the general business reputation and character of shareholders and management, and the probability of successful operations of the new company in accordance with the Act and Regulations.

Notice is further given that any person may, not later than April 5, 1977, submit to SBA in writing, comments on the proposed licensing of this company. Any such comments should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice will be published by the proposed Licensee in a newspaper of general circulation in San Antonio, Texas.

(Catalog of Federal Domestic Assistance Program No. 59-011 Small Business Investment Companies.)

Dated: March 14, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-8306 Filed 3-18-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 77-049]

COAST GUARD ACADEMY ADVISORY COMMITTEE

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Coast Guard Academy Advisory Committee to be held at the U.S. Coast Guard Academy, New London, Connecticut, on Monday, Tuesday and Wednesday, April 18-20, 1977. The meeting on Monday will begin at 1:00 p.m. and remain in session until 4:00 p.m. The meeting on Tuesday will begin at 9:00 a.m. and remain in session until 4:00 p.m. On Wednesday, the meeting will begin at 9:00 a.m. and adjourn at approximately noon.

The agenda for this meeting is as follows:

a. Review the fall 1976 advisory committee recommendations.
b. Faculty.
c. Curricula.
d. Cadets.
e. Physical facilities and equipment.
f. Accreditation.
g. Academic Division Support Personnel.
h. Summer program.
i. Admissions and recruiting.

The Coast Guard Academy Advisory Committee was established in 1937 by Public Law 75-38 to advise on the status of the curriculum and faculty of the Academy and to make recommendations as necessary.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify,

not later than the day before the meeting, and information may be obtained from:

Capt. Roderick M. White, U.S.C.G., Dean of Academics/Executive Secretary of Academy Advisory Committee, U.S. Coast Guard Academy, New London, Connecticut 06320. Phone: (203) 443-8688

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on March 15, 1977.

C. E. LARKIN,
Rear Admiral, USCG,
Chief, Office of Personnel.

[FR Doc. 77-8360 Filed 3-18-77;8:45 am]

Federal Highway Administration

[Docket No. 77-3]

INDEPENDENT BIKEWAY AND PEDESTRIAN WALKWAY PROJECTS

Notice of Proposed Negative Declaration

Purpose. In this document the Federal Highway Administration (FHWA) gives notice of and solicits comment on a proposed negative declaration of environmental significance under the National Environmental Policy Act, 42 U.S.C. 4332, and a proposed determination of the Federal Highway Administrator under section 4(f) of the Department of Transportation Act, 49 U.S.C. 1653(f), for that class of independent bikeway and pedestrian walkway projects which may affect recreation and park areas established and maintained primarily for recreation, open space and similar purposes, where the official having jurisdiction over the affected property has approved the project and has confirmed that all possible planning to minimize harm has been accomplished. Federal-aid highway funding for projects for the construction of independent bikeways and pedestrian walkways was authorized by section 124 of the Federal-Aid Highway Act of 1973, Pub. L. 93-87, which amended title 23, United States Code, by adding section 217. This action is proposed under regulations appearing at 39 FR 35232-35246 (September 30, 1974) and 23 CFR Part 771.

Section 4(f) of the Department of Transportation Act of 1966 (49 U.S.C. 1653(f)) [1] provides that the Secretary may not approve any program or project requiring the use of any public land from a significant public park, recreation area, or wildlife and waterfowl refuge or any land from a significant historic site unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm. The National Environmental Policy Act of 1969 (49 U.S.C. 4321-4347) requires an environmental impact statement for "every recommendation or request on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment."

It is felt that a single statement for a certain class of independent bikeway and pedestrian walkway projects approved by the appropriate officials is proper and appropriate, as these projects will improve or enhance the recreational features of the lands described in section 4(f), and there are no feasible and prudent alternatives to these projects in these areas. Further, to require a statement for each project would frustrate the accomplishment of the objectives of the legislation to encourage construction of bikeways and pedestrian walkways, cause meritorious projects to be dropped because of red tape, deprive certain areas of desired recreational features, and have a general negative environmental impact.

Therefore, in accordance with the law, the Federal Highway Administrator proposes to make a determination that certain bikeways and pedestrian walkways to be constructed under section 124 of the Federal-Aid Highway Act of 1973 (23 U.S.C. 217) are deemed not to have a significant effect upon the quality of the human environment and that no feasible and prudent alternatives to the use of section 4(f) lands are deemed to exist in conjunction with the construction of bikeways and pedestrian walkways having the written approval of the official having jurisdiction of said lands. The approvals shall contain a statement that all possible planning to minimize harm has been accomplished in the location and design of the bikeway or walkway facility.

The negative declaration and 4(f) statement upon which the Federal Highway Administrator proposes to base his determination appears below. Interested persons are invited to comment on the statement and proposed determination. Comments should be submitted in triplicate to the Office of Chief Counsel, Room 4230, FHWA Docket No. 77-3, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590. Comments received before April 11, 1977, will be considered before final action is taken on this proposal.

BACKGROUND

There is a growing interest in bicycling and walking for commuting, for recreation, and for other trip purposes. Where this activity occurs on high-speed roadways, both safety and efficiency are impaired because of the mixture of motorized and nonmotorized modes of travel. Construction of bikeways or pedestrian walkways will promote safety and will assist in retaining the motor vehicle carrying capacity of the highway while adding new bicycle capacity.

The United States Congress recognized the importance of bicycle and pedestrian travel by including special provisions for these modes in the Federal-Aid Highway Act of 1973, Public Law 93-87. Section 124 of this act amended Title 23, U.S. Code by adding Section 217 contained the following principal provisions:

(1) Federal funds available for the construction of preferential facilities to serve pedestrians and persons on bicycles are those apportioned in accordance with paragraphs (1), (2), (3), and (6) of section 104(b), 23 U.S.C. and those authorized for forest highways, forest development roads and trails, public land development roads and trails, park roads and trails, parkways, Indian reservation roads and public land highways.

(2) Not more than $40 million of funds (amended to $45 million by section 134 of the Federal-Aid Highway Act of 1976) apportioned in any fiscal year for purposes described in the preceding paragraph may be obligated for bicycle projects and pedestrian walkways.

(3) No State shall obligate more than $2 million (amended to $2.5 million by section 134 of the Federal-Aid Highway Act of 1976) of Federal-aid funds for such projects in any fiscal year.

(4) Such projects shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes.

The funding limitations described in (2) and (3) above are applicable only to independent bikeway or walkway construction projects.

PROJECT DESCRIPTION

Independent bikeway or walkway construction projects are those highway construction projects which provide bicycle or pedestrian facilities, in contrast with a project whose primary purpose is to serve motorized vehicles. The requirements for qualification of proposed bikeway or walkway facilities as independent bikeway or walkway construction projects are contained in Volume 6, Chapter 1, Section 1, Subsection 1 of the Federal-Aid Highway Program Manual, codified as Part 632 of Chapter 1 of Title 23 of the Code of Federal Regulations.

The bikeways and walkways will be designed and constructed in a manner suitable to the site conditions and the anticipated extent of usage. In general, a bikeway will be designed with an alignment and profile suitable for bicycle use with a surface that will be reasonably durable, that incorporate drainage as necessary, and that is of a width appropriate for the planned one-way or two-way use.

The facilities will be accessible to the users or will form a segment which will be part of an overall plan.

It is required that a public agency be responsible for maintenance of the federally funded bikeway or walkway. No motorized vehicles will be permitted on the facilities except those for maintenance purposes and snowmobiles where State or local regulations permit.

APPLICATION

This negative declaration/preliminary section 4(f) document is only applicable for independent bikeway or walkway construction projects which require the use of recreation and park areas established and maintained primarily for active recreation, open space, and similar purposes. Additionally, this document is applicable only when the official having specific jurisdiction over the section 4(f) property has given his approval in writing that the project is acceptable and consistent with the designated use of the

[1] 23 U.S.C. 138 contains identical language.

property and that all possible planning to minimize harm has been accomplished in the location and design of the bikeway or walkway facility. This document does not apply if the project would require the use of critical habitat of endangered species.

This document does not cover the use of any land from a publicly owned wildlife or waterfowl refuge or any land from a historic site of national, State, or local significance. A separate section 4(f) statement must be prepared in these categories.

This document does not cover bicycle or pedestrian facilities that are incidental items of construction in conjunction with highway improvements having the primary purpose of serving motor vehicular traffic.

COORDINATION

The final negative declaration/preliminary section 4(f) document will be coordinated with the U.S. Departments of the Interior (DOI), Housing and Urban Development, and Agriculture.

Individual projects will be coordinated at the earliest feasible time with all responsible local officials, including the State Outdoor Recreation Liaison Officer. The use of properties acquired or developed with Federal monies from the Land and Water Conservation Fund will also be coordinated with the Bureau of Outdoor Recreation of DOI.

SUMMARY

There is no feasible and prudent alternative to the use of recreation and park areas for the independent bikeway or walkway construction projects because the bikeways and walkways are recreational facilities and are properly a normal part of the development of these properties. Artificially routing a bikeway or walkway around a recreation or park area would decrease the recreational value of the bikeway or walkway.

The written approval of the official having specific jurisdiction over the section 4(f) property and construction authorization by FHWA will confirm that all possible planning to minimize harm has been accomplished in the location and design of the bikeway or walkway facility.

Noise and air quality will not be affected by bicycles. There would be an increase in the noise level if snowmobiles are permitted. However, this would likely occur at a time when other uses of the recreational facilities will be minimal.

Temporary impacts on water quality will be minimal. Erosion control measures will be used throughout the construction period. Due to the narrow cross section of the bikeways and walkways, a minimal amount of clearing will be required. The projects will be blended into the existing terrain to reduce any visual impacts.

Displacement of families and businesses will not be required.

No significant adverse social or economic impacts are anticipated. There will be beneficial impacts such as the enhancement of the recreational potential of the parks and the provision of an alternate mode of transportation for the commuter.

Based on the above, and on the scope of the independent bikeway and walkway projects, it is determined that they will not have a significant effect upon the quality of the human environment.

Issued on: March 11, 1977.

L. P. LAMM,
Acting Federal Highway Administrator.

[FR Doc.77-8339 Filed 3-18-77;8:45 am]

Office of the Secretary

[OST File No. 52; Notice No. 77-9]

DISPOSITION OF RAILROAD PASSENGER EXPERIMENTAL ROUTE

Intent To Make Findings and Final Decision on the "Mountaineer", a Railroad Passenger Experimental Route Between Norfolk and Cincinnati

Section 403(c) of the Rail Passenger Service Act (the "Act"), 45 U.S.C. 563(c), provides that "[T]he Secretary (of Transportation), in consultation with the Board of Directors (of Amtrak), shall terminate (an experimental) route if he finds that it has attracted insufficient patronage to serve the public convenience and necessity, or he may designate such route as a part of the basic system * * *."

The "Mountaineer" was designated by the Secretary under section 403(c) of the Act as an experimental route on March 1, 1975, and began operating on March 25, 1975. It operates between Norfolk, Virginia, and Cincinnati, Ohio, with stops at Suffolk, Petersburg, Crewe, Farmville, Lynchburg, Bedford, Roanoke, Christiansburg, and Narrows in Virginia, Bluefield, Welch, and Williamson in West Virginia and Tri-State Station, Russell and South Portsmouth in Kentucky.

Notice is hereby given that the Secretary proposes to issue his decision on or after April 26, 1977, whether to terminate or continue the "Mountaineer" as a part of the basic system, as required by section 403(c) of the Act.

Interested persons are invited to submit written data, views, arguments, or other comment to the Docket Clerk, OST File No. 52, Office of the General Counsel, Department of Transportation, Washington, D.C. 20590. Each comment shall indiacte the OST file number and the notice number shown on this notice, and shall state whether the person commenting supports termination or inclusion of the "Mountaineer" within the basic system, and the reasons therefor.

Comments received before April 7, 1977 will be considered in arriving at this decision. Copies of all written comments received will be available for examination by interested persons in Room 10100, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. between the hours of 9:00 a.m. and 5:30 p.m. on Mondays through Fridays with the exception of federal holidays.

For further information regarding this notice, interested persons may contact Natalie Bayless, United States Department of Transportation, Room 5101, 400 Seventh Street, S.W., Washington, D.C. 20590, telephone number (202) 426-8220.

Dated: March 17, 1977.

BROCK ADAMS,
Secretary of Transportation.

[FR Doc.77-8437 Filed 3-18-77;8:45 am]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 77-7; Reference: ATF O 1100.78]

ASSISTANT DIRECTOR (REGULATORY ENFORCEMENT)

Delegation of Authority

1. *Purpose.* This order delegates certain authorities, now vested in the Director by regulations in 27 CFR Part 240, to the Assistant Director (Regulatory Enforcement).

2. *Background.* Under current regulations, the Director is the position of final authority on numerous actions relating to approval of activities at regulated bonded wine cellars. It has been administratively determined that certain authorities now vested in the Director by regulations in 27 CFR Part 240, Wine, belong at a lower organizational level and therefore should be delegated.

3. *Delegations.* Pursuant to the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.-7701-9, there is hereby delegated to the Assistant Director (Regulatory Enforcement) the authority to take final action on the following matters relating to 27 CFR Part 240, Wine:

a. To prescribe all forms required by regulations including bonds, applications, notices, reports, returns, and records, under 27 CFR 240.2.

b. Approval of applications for establishment of premises for operation of bonded wine cellars with limited capacity, under 27 CFR 240.120.

c. Approval to conduct on bonded wine cellar premises other operations not specifically provided in regulations, under 27 CFR 240.134.

d. Approval of fences or walls surrounding wine spirits storage tanks located outside of buildings, under 27 CFR 240.166.

e. Surrender of obsolete formulas for which the proprietor no longer has any use, under 27 CFR 240.213.

f. Approval of other materials or methods for plats, under 27 CFR 240.271.

g. Approval of letter applications by successors to adopt the approved ATF Forms 698 Supplemental, Formula and Process for Wine, of predecessors, under 27 CFR 240.290a.

h. Approval of other acids to correct natural deficiencies, under 27 CFR 240.-364, 27 CFR 240.404, and 27 CFR 240.1052.

i. Approval of statements of processes on ATF Forms 698 Supplemental for production of Flor sherry wine, or riders to the formulas, under 27 CFR 240.385.

j. Approval of formulas and processes on ATF Forms 698 Supplemental for production of special natural wine, or riders to the formulas, under 27 CFR 240.441.

k. Approval, pursuant to 27 CFR 240.-441, of formulas described in ATF Forms 698 Supplemental filed pursuant to 27 CFR 240.446 for production of essences on bonded wine cellar premises for use in the production of special natural wine.

l. Approval of essences, not made on bonded wine cellar premises, for use in the production of special natural wine, under 27 CFR 240.447.

m. Approval of formulas and processes on ATF Forms 698 Supplemental for production of agricultural wine, or riders to the formulas, under 27 CFR 240.465.

n. Approval of formulas and processes on ATF Forms 698 Supplemental for production of wine other than standard wine, or riders to the formulas, under 27 CFR 240.482.

o. Approval, pursuant to 27 CFR 240.-482, of formulas or riders to formulas described in ATF Forms 698 Supplemental for production of all wine products specified under 27 CFR 240.485a.

p. Approval of statements of process on ATF Forms 698 Supplemental for production of effervescent wine, or riders to the formulas, under 27 CFR 240.513.

q. Approval of filter aids which contain active chemical ingredients or which have been so treated that they may alter the character of the wine, under 27 CFR 240.528 and 27 CFR 240.1052.

r. Approval of test procedures for determination of carbon dioxide in still wine, under 27 CFR 240.534.

s. To prescribe forms for required reports and records, under 27 CFR 240.905.

t. Approval, pursuant to 27 CFR 240.940, of letterhead applications submitted under 27 CFR 240.942 for exceptions to construction and equipment requirements.

u. Approval, pursuant to 27 CFR 240.941, of letterhead applications submitted under 27 CFR 240.942 for exceptions to methods of operation requirements.

v. Cancellation of approval of materials for use in the production, cellar treatment, or finishing of wine (including distilling material), under 27 CFR 240.1051.

w. Approval of use of other materials or methods not specifically authorized in regulations for treatment of wine, under 27 CFR 240.1052.

4. *Redelegation.* a. The authority delegated herein to the Assistant Director (Regulatory Enforcement) may be redelegated by the Assistant Director to officials (1) in Bureau Headquarters—not below the position of branch chief; or (2) in each region—not below the position of regional regulatory administrator.

b. The authorization delegated above may not be further redelegated.

Effective date: This order becomes effective on March 10, 1977.

Signed: March 10, 1977.

REX D. DAVIS,
Director.

[FR Doc.77-8301 Filed 3-18-77;8:45 am]

VETERANS ADMINISTRATION

VETERANS ADMINISTRATION WAGE COMMITTEE

Availability of Annual Report

Pursuant to the provisions of section 10(d) of Pub. L. 92-463 (Federal Advisory Committee Act) and OMB Circular A-63 of March 27, 1974, notice is hereby given that the Annual Report of the Veterans Administration Wage Committee for calendar year 1976 has been issued.

The report summarizes activities of the Committee on matters related to wage surveys and pay schedules for Federal prevailing rate employees. It is available for public inspection at two locations:

Library of Congress, Microfilm Reading Room, Room MB-140B, Main Building, 10 First Street, SE., Washington, D.C.

Veterans Administration, Office of the Secretary, VA Wage Committee, Room 1102, 810 Vermont Avenue, NW., Washington, D.C.

Dated: March 14, 1977.

MAX CLELAND,
Administrator.

[FR Doc.77-8349 Filed 3-18-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 350]

ASSIGNMENT OF HEARINGS

MARCH 16, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 48315 (Sub-No. 6), Hopkins Motor Coach, Inc., now assigned March 22, 1977, at Cambridge, Md. is canceled and application dismissed.

MC 142497 Sub 1, Atlanta Charter Bus Service, Inc. now assigned April 18, 1977 at Norfolk, Virginia is being postponed to May 16, 1977 (1 week) at Norfolk, Virginia in a hearing room to be later designated.

MC-C-9025, Kane Transfer Company v. Jacobs Transfer, Inc.; MC 59909 (Sub-1), Jacobs Transfer, Inc.—Petition for Modification and MC 59909 (Sub-13), Jacobs Transfer, Inc.—Eastern Shore Application, now assigned March 29, 1977 at Washington, D.C., has been postponed to April 13, 1977 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 5623 (Sub-29), Arrow Trucking Co.; MC 54847 (Sub-12), Intracoastal Truck Line, Inc. and MC 107678 (Sub-61), Hill & Hill Truck Line, Inc., now being assigned May 9, 1977 (2 weeks) at The Whitehall Hotel, 1700 Smith Street, Cullen Center, Houston, Texas and continued to May 23, 1977 (1 week) at The Fairmont Mayo Hotel, 115 West 5th, Tulsa, Oklahoma.

MC 59717 Sub 8, Jacksonville Bus Line Co. now being assigned May 23, 1977 (1 week) at Springfield, Illinois in a hearing room to be later designated.

MC 138713 Sub 3, R & G Transit Corp. now being assigned May 17, 1977 (4 days) at Springfield, Illinois in a hearing room to be later designated.

MC 13520 Sub 134, J. H. Rose Truck Line, Inc. now being assigned May 17, 1977 (1 day) at Jacksonville, Florida in a hearing room to be later designated.

MC 118959 Sub 137, Jerry Lipps, Inc. now being assigned May 18, 1977 (1 day) at Jacksonville, Florida in a hearing room to be later designated.

MC 128555 Sub 12, Meat Dispatch, Inc. now being assigned May 26, 1977 (2 days) at Miami, Florida in a hearing room to be later designated.

MC 109708 Sub 67, Indian River Transport Col., dba Indian River Transport, Inc. now being assigned May 23, 1977 (2 days) at Orlando, Florida in a hearing room to be later designated.

MC 121060 Sub 42, Arrown Truck Lines, Inc., MC 115491 Sub 132, Commercial Carrier Corp., MC 115311 Sub 201, J & M Transportation Co., Inc., MC 59150 Sub 95, Ploof Truck Lines, Inc. and MC 11207 Sub 378, Deaton, Inc. now being assigned May 19, 1977 (2 days) at Jacksonville, Florida in a hearing room to be later designated.

No. 36451, Colorado Intrastate Freight Rates and Charges—1976, now assigned April 12, 1977 at Denver, Colorado, will be held in Room 587 Tax Court, U.S. Federal Building, 19th & Stout Streets.

MC 142162, Bralen Trucking Co., Inc., now assigned April 18, 1977 at Denver, Colorado, will be held in Room 587 Tax Court, U.S. Federal Building, 19th & Stout Streets.

MC 48221 (Sub-6), W.N. Morehouse Truck Line, Inc., now being assigned April 20, 1977 (8 days), in Room 587 Tax Court, U.S. Federal Building, 19th & Stout Streets, Denver, Colorado.

MC 129328 (Sub-6), Pal Tex Transport Co., now being assigned May 3, 1977 (1 day) at Dallas, Texas, in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-8383 Filed 3-18-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

MARCH 16, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and

charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before April 5, 1977.

FSA No. 43341—*Grain and Grain Products from and to Points in the United States for Export.* Filed by Western Trunk Line Committee, Agent, (No. A–2734), for interested rail carriers.

Rates on grain, grain products, soybeans, vegetable meal, and related articles, in carloads, as described in the application, from points in IRC, NPCFB, southwestern and western trunk-line territories, to Atlantic Coast, Great Lakes, Gulf Coast and Pacific Coast Ports, also Rio Grande crossings for export to Hawaii and insular possessions of the United States or the Panama Canal Zone.

Grounds for relief—Revision of rate structure.

Tariffs—Supplement 386 to Trans-Continental Freight Bureau, Agent, tariff 29–0, I.C.C. No. 1805, and 20 other schedules named in the application.

Rates are published to become effective on April 16, 1977.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–8384 Filed 3–18–77;8:45 am]

[Rule 19; Ex Parte No. 241; 26th Rev. Exemption 90]

CADIZ RAILROAD CO., ET AL.

Exemption Under the Mandatory Car Service Rules

It appearing that the railroads named below own numerous 50-ft. plain boxcars; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, I.C.C.–R.E.R. No. 402, issuel by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1, 2(a), and 2(b).

* * * * *

Cadiz Railroad Company
Reporting Marks: CAD

* * * * *

The Clarendon and Pittsford Railroad Company
Reporting Marks: CLP
Green Mountain Railroad Corporation
Reporting Marks: GMRC
Greenville and Northern Railway Company
Reporting Marks: GRN
Greenwich & Johnsonville Railway Company
Reporting Marks: GJ[1]
Lake Erie, Franklin & Clarion Railroad Company
Reporting Marks: LEF
Louisville and Wadley Railway Company
Reporting Marks: LW
Louisville, New Albany & Corydon Railway Company
Reporting Marks: LNAC
Ogdensburg Bridge and Port Authority
Reporting Marks: NSL
Pearl River Valley Railroad Company
Reporting Marks: PRV
The Pittsburgh and Lake Erie Railroad Company
Reporting Marks: P&LE
Providence And Worcester Company
Reporting Marks: PW
Raritan River Rail Road Company
Reporting Marks: RR
Sacramento Northern Railway
Reporting Marks: SN
St. Johnsbury & Lamoille County Railroad
Reporting Marks: SJL
Sierra Railroad Company
Reporting Marks: SERA
Tidewater Southern Railway Company
Reporting Marks: TS
Toledo, Peoria & Western Railroad Company
Reporting Marks: TPW
Vermont Railway, Inc.
Reporting Marks: VTR
WCTU Railway Company
Reporting Marks: WCTR

* * * * *

Yreka Western Railroad Company
Reporting Marks: YW

Effective March 15, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., March 10, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77–8385 Filed 3–18–77;8:45 am]

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[1] Addition.

NOTE.—The Baltimore and Ohio Railroad Company; The Chesapeake and Ohio Railway Company; and Western Maryland Railway Company deleted.

Federal Register

MONDAY, MARCH 21, 1977

PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

■

COMMUNITY DEVELOPMENT BLOCK GRANTS

Applications For Entitlement Grants

Title 24—Housing and Urban Development

CHAPTER V—OFFICE OF ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-77-292]

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Applications for Entitlement Grants

On November 3, 1976, the Department of Housing and Urban Development published in the FEDERAL REGISTER (41 FR 48476) an interim rule regarding applications for entitlement grants under the community development block grant program as authorized by Title I of the Housing and Community Development Act of 1974. Interested persons were given until December 6, 1976, to submit written comments. All comments with respect to the interim rule were given due consideration.

As a result of the comments received, the following changes were made:

1. A number of comments requested that applicants be permitted to either extend their program year by up to three months or retain the previous policy of permitting extensions of up to 60 days. A number of communities stated the additional time was necessary to ensure meaningful citizen participation, provide for public hearings and meet critical timing deadlines previously established under the previous policy. Accordingly, paragraph (a) (2) of § 570.300 has been revised to permit an applicant to lengthen its program year by up to two months provided it is for the purpose of conforming the program year to State or local fiscal or budgeting requirements, and HUD is notified at least three months prior to the end of the current program year. However, an additional requirement has been added establishing a deadline of July 15, 1977, for receipt by HUD of entitlement applications.

2. Several comments requested that applications be made available to the public at the time of submission to the A-95 review process. It was felt the application is substantially complete at that time and this chance will provide citizens additional time to review the application and also assist clearinghouse agencies in obtaining local citizen input. Paragraph (b) of § 570.300 has been changed to incorporate this recommendation.

3. As a result of a comment received, HUD has clarified paragraph (c) of § 570.300 to make it clear that there is no time limit imposed on citizens to submit objections to the approval of an application on the grounds that the applicant's description of needs and objectives is plainly inconsistent with significant, generally available facts and data, or that the activities to be undertaken are plainly inappropriate to meeting the needs and objectives identified by the applicant and certain other stated conditions. Paragraph (c) has been further changed with respect to the manner in which such information is to be submitted.

4. Paragraph (f) of § 570.300 is revised to add a new subparagraph which permits HUD field office directors to grant extensions of up to 60 days for submission of either the annual performance report or the application, or both, for reasons which are beyond the control of the applicant. The primary reasons for such extensions will be the severe weather conditions that have plagued the Nation this winter, and other disaster and emergency conditions.

Applicants must request extensions in writing from the appropriate HUD Area Office. Although no specific deadline is set for submitting requests for extensions, applicants are encouraged to submit their written requests at the earliest practicable date.

An extension of the deadline for submission of an annual performance report or an application for reasons beyond the control of the applicant does not change the applicant's program year; it simply provides a temporary adjustment from the normal due dates to meet unforeseen circumstances.

In connection with the environmental review of these amendments to the regulations, a Finding of Inapplicability has been made under HUD Handbook 1390.1, and is available for inspection in the Office of the Rules Docket Clerk, Room 10141, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

NOTE.—It is hereby certified that the economic and inflationary impacts of these amendments have been carefully evaluated in accordance with OMB Circular A-107.

(Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).)

Accordingly, 24 CFR Part 570, Subpart D, is amended as follows:

1. Section 570.300 is amended to read as follows:

§ 570.300 Timing requirements.

(a) *Submission of applications.* (1) In order to receive an entitlement grant under this part, each applicant is required to submit a complete application at least 75 days, but not more than 120 days, prior to the end of its program year. Notwithstanding the provisions of paragraph (a) (2) of this section, no application will be accepted after July 15.

(2) A program year shall run for a twelve month period. An applicant may, however, either shorten its program year by as much as one calendar month or lengthen its program year by as much as two calendar months: *Provided:* (i) It is for the purpose of conforming the program year to State or local fiscal or budgeting requirements; and (ii) HUD receives written notice of such proposed change at least three months prior to the end of the current program year. An applicant may not, however, receive more than one entitlement grant from a single Federal fiscal year appropriation.

(3) (i) An applicant which was entitled to a grant under this part in the previous fiscal year, but did not apply for an entitlement grant or whose application was not approved in the previous fiscal year, must apply no later than January 15 unless an extension of this date has been requested by the applicant and such extension has been approved by HUD by January 15. (ii) A newly designated metropolitan city that did not receive a hold harmless grant in the previous fiscal year; or a county seeking qualification as an urban county for the first time; or a county which has qualified as an urban county but did not qualify in the previous fiscal year, must apply no later than April 30.

(b) *Public availability of application.* At the time the application is submitted to HUD the applicant shall make reasonable efforts to inform citizens involved in or affected by the local Community Development Program that the application has been submitted to HUD and is available to interested parties upon request. Notice to that effect shall be published in a newspaper of general circulation in the jurisdiction of the applicant, including a statement covering the requirements described in paragraph (c) of this section. In addition, the application shall be available to the public at the time it is submitted to the clearinghouses as described in paragraph (d) below.

(c) *Consideration of objections to applications.* Persons wishing to object to approval of an application on the grounds that the applicant's description of needs and objectives is plainly inconsistent with significant, available facts and data, or that the activities to be undertaken are plainly inappropriate to meeting the needs and objectives identified by the applicant, or that the application does not comply with the requirements of this part or other applicable law or proposes activities which are ineligible under this Part, may make such objection known to the appropriate HUD Area Office. Such objections should include both an identification of the requirements not met, and, in the case of objections that the description of needs and objectives is plainly inconsistent with significant, generally available facts and data, the data upon which the persons rely. Although HUD will consider data submitted at any time, such objections should be submitted within 30 days of the publication of the notice described in paragraph (b) of this section that the application has been submitted to HUD. In order to ensure that data submitted will be considered during the review process, HUD will not approve an application until at least 30 days after receipt of an application.

(d) *Meeting the Requirements of OMB Circular No. A-95.* Applicants must comply with all the procedures set forth in Part I of OMB Circular No. A-95 except as modified below. These procedures also require that program amendments submitted to HUD in accordance with § 570.305 (a) or (b) shall be submitted to all appropriate clearinghouses for a thirty-day review and comment period.

(1) *Notification.* The A–95 requirement that clearinghouses be notified of an applicant's intent to apply for Federal assistance will be satisfied by HUD. Each fiscal year HUD will advise the appropriate State and areawide clearinghouses, with a copy to the applicant, of those communities entitled to receive grants under this part. This notification will be provided at least sixty days prior to the date by which the applicant must submit the completed application to HUD. Upon receipt of its copy of the HUD notification to the clearinghouses, the applicant shall make arrangements with the clearinghouses regarding early transmittal of information describing the contents of the application. An applicant wishing to submit its application to HUD before February 1 of each fiscal year shall provide its own notice of intent to file with the appropriate clearinghouses in accordance with the usual A–95 procedures.

(2) *Full Application Review.* Unless the requirement is waived by a clearinghouse, the applicant shall provide the clearinghouse a period of 45 calendar days to review the completed application and transmit to the applicant any comments or recommendations. Clearinghouses will be of assistance to both the applicant and HUD if their reviews address the criteria for the community development plan, the Community Development Program, and the housing assistance plan described in § 570.303 (a), (b) and (c) as well as the "subject matter of comments and recommendations" in Part I, Attachment A of OMB Circular No. A–95, item 5, with emphasis on consistency among State, areawide and local plans and compliance with environmental and civil rights laws. The applicant shall transmit to HUD all clearinghouse comments, or when no comments are received, a statement that no comments or recommendations have been received from the clearinghouses, along with the complete application.

(3) *Application Modification During Clearinghouse or HUD Review.* An applicant which revises its application while it is under review by a clearinghouse or by HUD shall inform the clearinghouses of the revisions and, if the application has been submitted to HUD, the number of days remaining within the 75-day statutory limitation on review time described in § 570.306(c), for HUD to complete its review of the application.

(e) *Submission of Annual Performance Report.* At least 30 days, but not more than 60 days, prior to submission of the application to HUD, the applicant shall submit an annual performance report as described in § 570.906. To facilitate their review of entitlement applications, a copy of the annual performance report shall, at the same time, be submitted to the appropriate A–95 clearinghouses. The annual performance report shall be made available to citizens for their information and consideration.

(f) *Exceptions.* (1) Notwithstanding the provisions of this section, the Secretary may, upon request of an applicant, grant extensions of up to sixty days for submission of an annual performance report or an application, or both, for reasons beyond the control of the applicant, including such factors as disasters or emergencies declared by the President of the United States or other authorized Federal official, the Governor of the State, or an authorized official of the unit of general local government pursuant to State or local law. The basis for the extension shall be set forth in a letter to the appropriate HUD Area Office from the applicant. Such extensions will be only for the purpose of providing a temporary adjustment in the due date of the annual performance report and/or the application for the current fiscal year. In such cases, HUD still retains the right to a 75-day period for review of the application.

(2) For Fiscal Year 1977 only, the review period provided for clearinghouses is reduced from 45 calendar days to 30 calendar days, notwithstanding the provisions of § 570.300(d) (2), if a completed application is submitted to HUD prior to January 1, 1977.

(3) For Fiscal Year 1977 only, the annual performance report may be submitted concurrently with submission of the application to HUD, notwithstanding the provisions of § 570.300(e), if a completed application is submitted to HUD prior to January 1, 1977.

§ 570.301 [Reserved].

2. Section 570.301 is reserved.

Effective date. These amendments shall be effective on March 21, 1977.

JOHN J. TUITE,
Acting Deputy, Assistant Secretary for Community Planning and Development.

[FR Doc.77-8390 Filed 3-18-77;8:45 am]